

KANSAS OFFICE *of*
REVISOR *of* STATUTES

LEGISLATURE *of* THE STATE *of* KANSAS
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MEMORANDUM

To: House Committee on Judiciary
From: Office of Revisor of Statutes
Date: Tuesday, February 14, 2023
Re: House Bill No. 2395

House Bill No. 2395 is the annual legislative review of exceptions to disclosure of public records under the Kansas open records act.

Under the Kansas open records act, any new or substantially amended exception to disclosure expires on July 1 five years after enactment of the new or substantially amended exception, unless the legislature acts to continue the exception. Before an exception expires, the Revisor of Statutes certifies to the President of the Senate and the Speaker of the House of Representatives the statutory language and citation of each exception that will expire in the ensuing year.

Occasionally, the Revisor's review and certification fails to include an exception that is set to expire in the ensuing year. Under K.S.A. 45-229(e), any exception that is omitted from the certification does not expire, and the Revisor is directed to include the exception in the following year's certification. This year, there is one such exception.

Under K.S.A. 45-229(h), the legislature is directed to review each exception before its expiration and consider the following factors:

1. What specific records are affected by the exception;
2. whom does the exception uniquely affect, as opposed to the general public;
3. what is the identifiable public purpose or goal of the exception; and
4. whether the information contained in the records may be obtained readily by alternative means and how it may be obtained.

Two documents are attached to this memorandum: The document entitled "2018 New and Substantially Amended Kansas Open Records Exceptions" is a list of the statute numbers containing the exceptions and the subject of the records. The document entitled "Statutory Text of 2018 New and Substantially Amended Kansas Open Records Exceptions" contains the text of

those statutes with the language creating or amending the open records exception highlighted within each statute.

If enacted, HB 2395 would take effect upon publication in the statute book, July 1, 2023.

2018 New and Substantially Amended Kansas Open Records Exceptions

RE: K.S.A. 45-229

Exceptions enacted or substantially amended in the 2018 legislative session
and exceptions not certified in a prior year

Certified for the 2023 legislative session

Exceptions expire July 1, 2023

NEW EXCEPTIONS

2-3902	Department of Agriculture; criminal history information under industrial hemp act
9-512	State bank commissioner; informal orders under Kansas money transmitter act
40-4308	Commissioner of insurance; examinations of captive insurance companies
40-4350	Commissioner of insurance; records relating to captive insurance companies
65-177	KDHE; records of maternal death investigations
66-2020	Courts; petitioner address and phone number under certain protective orders
74-5611a	CPOST; registry of all Kansas police officers or law enforcement officers
75-7240	Executive branch agencies; internal IT security assessments
75-7242	Executive branch agencies and Kansas information security office; IT security

EXCEPTIONS NOT CERTIFIED IN A PRIOR YEAR

65-28b08	State board of healing arts; certified nurse-midwife impairment records
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Statutory Text of 2018 New and Substantially Amended Kansas Open Records Exceptions
(listed in K.S.A. order)

2-3902. (a) The Kansas department of agriculture shall, by the adoption of rules and regulations, establish an advisory board within the department to provide input and information regarding the regulation and development of industrial hemp in the state of Kansas and any programs proposed or operated by the department. Such board shall include a minimum of six members, including members that represent the following:

- (1) The Kansas legislature;
- (2) crop research;
- (3) industrial hemp production or processing;
- (4) law enforcement;
- (5) seed certification; and
- (6) the state entity designated to regulate hemp processors.

(b) The state advisory board shall meet at least annually. Members shall receive no compensation but shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(c) The secretary of agriculture may require, as a qualification for initial or continuing employment with the Kansas department of agriculture, all individuals overseeing or regulating industrial hemp to be fingerprinted and to submit to a state and national criminal history record check. The fingerprints shall be used to identify the individual and to determine whether the individual has a record of criminal history in this state or any other jurisdiction. The department is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The department may use the information obtained from fingerprinting and the criminal history record check for purposes of verifying the identification of the individual and for making an official determination of the qualifications for initial or continuing employment pursuant to this section and rules and regulations promulgated hereunder. Disclosure or use of any information received by the department for any purpose other than the purposes provided for in this section shall be a class A misdemeanor and shall constitute grounds for removal from office or termination of employment.

(2) An individual who has been convicted of a felony violation of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or a substantially similar offense in another jurisdiction, within the immediately preceding 10 years, shall be disqualified from initial or continuing employment under this section.

(3) The Kansas bureau of investigation may charge a reasonable fee for conducting a criminal history record check.

(4) The individual seeking initial or continuing employment under this section shall pay the costs of fingerprinting and the state and national criminal history record checks.

9-512. (a) The commissioner, after notice and an opportunity for hearing, may issue an order to address any violation of this act or rules and regulations adopted pursuant thereto:

(1) Assessing a fine against any person who violates this act, or rules and regulations adopted thereto, in an amount not to exceed \$5,000 per violation;

(2) assessing the agency's operating costs and expenses for investigating and enforcing this act;

(3) requiring the person to pay restitution for any loss arising from the violation or requiring the person to disgorge any profits arising from the violation;

(4) barring the person from future application for licensure pursuant to the act; and

(5) requiring such affirmative action as in the judgment of the commissioner which will carry out the purposes of this act.

(b) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this act, rules and regulations adopted thereto, or an order issued pursuant to this act.

(c) The commissioner may enter into an informal agreement at any time with a person to resolve a matter arising under this act, rules and regulations adopted pursuant thereto, or an order issued pursuant to this act. The adoption of an informal agreement authorized by this subsection shall not be subject to the provisions of K.S.A. 77-501 et seq., and amendments thereto, or K.S.A. 77-601 et seq., and amendments thereto. Any informal agreement authorized by this subsection shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 9-513c, and amendments thereto. All such examination material shall also be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(d) Any person who knowingly violates any provision of this act shall be guilty of a severity level 9, nonperson felony. Each transaction in violation of this act and each day that a violation continues shall be a separate offense. Whenever a corporation violates any provision of this act, such violation shall be attributed to individual directors, officers and agents who have authorized, ordered or performed any of the acts constituting such violation.

(e) A corporation and its directors, officers and agents may each be prosecuted separately for violations of this act and the acquittal or conviction of one such director, officer or agent shall not abate the prosecution of the others.

(f) Whenever it appears that a person has violated, or is likely to violate, this act, rules and regulations adopted thereunder, or an order issued pursuant to this act, then the commissioner may bring an action for injunctive relief to enjoin the violation or enforce compliance, regardless of whether or not criminal proceedings have been instituted. Any person who engages in activities that are regulated and require a license under this act shall be considered to have consented to the jurisdiction of the courts of this state for all actions arising under this act.

40-4308. (a) Whenever the commissioner deems it necessary, but at least once every three years, the commissioner may make, or direct to be made, a financial examination of any captive insurance company in the process of organization, or applying for admission or doing business in Kansas. The commissioner may engage in

continuous analysis for the preparation of the examination. In addition, at the commissioner's discretion, the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in Kansas.

(b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the examiner's handbook adopted by the national association of insurance commissioners in effect when the commissioner exercises discretion under this subsection.

(c) The commissioner shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner shall be empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

(d) For the purpose of such analysis, the commissioner may require reports and other documents be filed with the commissioner.

(e) The commissioner may also examine or investigate any person, or the business of any person, insofar as such examination or investigation is, in the sole discretion of the commissioner, necessary or material to the examination of the company, but such examination or investigation shall not infringe upon or extend to any communications or information accorded privileged or confidential status under any other laws of this state.

(f) Upon determining that an examination should be conducted, the commissioner or the commissioner's designee shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. The commissioner may also employ such other guidelines or procedures as the commissioner may deem appropriate.

(g) When making an examination under this act, the commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company that is the subject of the examination.

(h) (1) No later than 30 days following completion of the examination or at such earlier time as the commissioner shall prescribe, the examiner in charge shall file with the department a verified written report of examination under oath. No later than 30 days following receipt of the verified report, the department shall transmit the report to the company examined, together with a notice that shall afford such company examined a reasonable opportunity of not more than 30 days to make a written submission or rebuttal with respect to any matters contained in the examination report.

(2) Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners' workpapers and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, rule and regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations;

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information; or

(C) call for and conduct a fact-finding hearing in accordance with K.S.A. 40-281, and amendments thereto, for purposes of obtaining additional documentation, data, information and testimony.

(3) All orders entered as a result of revelations contained in the final examination report shall be accompanied by findings and conclusions resulting from the commissioner's consideration and review of the examination report, relevant examiner work papers and any written submissions or rebuttals. Within 30 days of the issuance of the adopted report, the company shall file affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

(4) Upon the adoption of the examination report of an association captive insurance company, the commissioner shall hold the content of the examination report as private and confidential as to the pure captive insurance company. Nothing contained in this act shall be construed to limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action that the commissioner may, in the commissioner's discretion, deem appropriate.

(i) Nothing contained in this act shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.

(j) All examination reports, preliminary examination reports or results, working papers, recorded information, documents and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination made under this section are confidential and are not subject to subpoena and may not be made public by the commissioner or an employee or agent of the commissioner without the written consent of the company, except to the extent provided in this subsection. Nothing in this subsection shall prevent the commissioner from using such information in furtherance of the commissioner's regulatory authority under this act. The commissioner may grant access to such information to public officers having jurisdiction over the regulation of insurance in any other state or country, or to law enforcement officers of Kansas or any other state or agency of the federal government at any time. Access may also be granted to the national association of insurance commissioners and its affiliates, and the international association of insurance supervisors and its affiliates. Persons receiving such information must agree in writing prior to receiving the information to provide to it the same confidential treatment as required by this section, unless the prior written consent of the company to which it pertains has been obtained.

(k) The commissioner may receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

40-4350. (a) Documents, materials or other information obtained by or disclosed to the commissioner pursuant to K.S.A. 40-4332 through 40-4352, and amendments thereto, shall:

(1) Be confidential and privileged, except as provided in K.S.A. 40-4347, and amendments thereto; and

(2) not be subject to disclosure under the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(b) The commissioner shall not otherwise make the documents, materials or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates that would be affected thereby notice and opportunity to be heard in accordance with the provisions of the Kansas administrative procedure act, determines that the interests of policyholders, shareholders or the public would be served by the publication thereof, in which event, the commissioner may publish all or any part thereof in such a manner as the commissioner may deem appropriate. In making such determination, the commissioner of insurance also shall take into consideration any potential adverse consequences of the disclosure thereof.

(c) Neither the commissioner of insurance nor any person who received documents, materials or other information while acting under the authority of the commissioner of insurance or with whom such documents, materials or other information are shared pursuant to this section shall be permitted or required to testify in any private civil action concerning any confidential documents, materials or information subject to subsection (a).

(d) In order to assist in the performance of the commissioner's duties, the commissioner of insurance may:

(1) Share documents, materials or other information, including the confidential and privileged documents, materials or information subject to subsection (a), with federal and international regulatory agencies, and the NAIC and its affiliates, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material or other information, and has verified in writing the legal authority to maintain confidentiality;

(2) receive documents, materials or information, including otherwise confidential and privileged documents, materials or information from the national association of insurance commissioners, and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information. Documents received pursuant to this section shall not be subject to disclosure pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023; and

(3) Sharing agreements provided for in subsection (d) shall:

(A) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this act, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal or international regulators;

(B) specify that ownership of information shared with the NAIC and its affiliates and subsidiaries pursuant to this act remains with the commissioner, and the NAIC's use of the information is subject to the direction of the commissioner;

(C) require prompt notice to be given to an insurer and its affiliates whose confidential information in the possession of the NAIC, pursuant to this act, is subject to a request or subpoena to the NAIC for disclosure or production; and

(D) require the NAIC and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the NAIC and its affiliates and subsidiaries may be required to disclose confidential information about the insurer and its affiliates shared with the NAIC and its affiliates and subsidiaries pursuant to this act. Documents, materials or other information in the possession or control of the national association of insurance commissioners shall be confidential by law and privileged, shall not be subject to the open records act, K.S.A. 45-215 et seq., and amendments thereto, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(e) The sharing of information by the commissioner of insurance, pursuant to this act, shall not constitute a delegation of regulatory authority or rulemaking authority, and the commissioner of insurance is solely responsible for the administration, execution and enforcement of the provisions of this act.

(f) No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner of insurance under this act or as a result of sharing as authorized in subsection (d).

65-177. (a) (1) "Data," as used in K.S.A. 65-177 through 65-179, and amendments thereto, includes all facts, information, records of interviews, written reports, statements, notes or memoranda secured in connection with an authorized medical research study.

(2) "Maternal death" means the death of any woman from any cause while pregnant or within one calendar year of the end of any pregnancy, regardless of the duration of the pregnancy or the site of the end of the pregnancy.

(b) (1) The secretary of health and environment shall have access to all law enforcement investigative information regarding a maternal death in Kansas, any autopsy records and coroner's investigative records relating to the death, any medical records of the mother and any records of the Kansas department for children and families or any other state social service agency that has provided services to the mother.

(2) (A) The secretary may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any maternal death being investigated by the secretary. Any books, records or papers received by the secretary pursuant to the subpoena shall be confidential and privileged information and not subject to disclosure.

(B) The provisions of this paragraph providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(c) The secretary of health and environment shall:

(1) Identify maternal death cases;

(2) review medical records and other relevant data;

(3) contact family members and other affected or involved persons to collect additional relevant data;

(4) consult with relevant experts to evaluate the records and data collected;

- (5) make determinations regarding the preventability of maternal deaths;
- (6) develop recommendations and actionable strategies to prevent maternal deaths; and
- (7) disseminate findings and recommendations to the legislature, healthcare providers, healthcare facilities and the general public.

(d) (1) Healthcare providers licensed pursuant to chapters 65 and 74 of the Kansas Statutes Annotated, and amendments thereto, medical care facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, maternity centers licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and pharmacies licensed pursuant to article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall provide reasonable access to all relevant medical records associated with a maternal death case under review by the secretary.

(2) A healthcare provider, medical care facility, maternity center or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to criminal or disciplinary administrative action for good faith efforts to provide such records.

(e) (1) Information, records, reports, statements, notes, memoranda or other data collected pursuant to this section shall be privileged and confidential and shall not be admissible as evidence in any action of any kind in any court or before another tribunal, board, agency or person. Such information, records, reports, statements, notes, memoranda or other data shall not be exhibited nor their contents disclosed in any way, in whole or in part, by any officer or representative of the department of health and environment or any other person, except as may be necessary for the purpose of furthering the investigation of the case to which they relate. No person participating in such investigation shall disclose, in any manner, the information so obtained.

(2) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(f) (1) All proceedings and activities of the secretary or representatives of the secretary under this section, opinions of the secretary or representatives of the secretary formed as a result of such proceedings and activities and records obtained, created or maintained pursuant to this section, including records of interviews, written reports and statements procured by the secretary or any other person, agency or organization acting jointly or under contract with the department of health and environment in connection with the requirements of this section, shall be confidential and not subject to the provisions of the open records act or the open meetings act or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Nothing in this section shall be construed to limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of proceedings and activities of the secretary or representatives of the secretary under this section.

(2) The secretary or representatives of the secretary shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of an investigation. Nothing in this section shall be construed to prevent the secretary or representatives of the secretary from testifying to information obtained independently of this section or that is public information.

(3) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(g) Reports of aggregate non-individually identifiable data shall be compiled on a routine basis for distribution in an effort to further study the causes and problems associated with maternal deaths. Reports shall be distributed to healthcare providers and medical care facilities and other persons necessary to reduce the maternal death rate.

(h) The secretary of health and environment shall receive data secured in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from maternal, perinatal and anesthetic causes. Such studies may be conducted by the secretary of health and environment and staff or with other qualified persons, agencies or organizations. If such studies are conducted with any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in such study. Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal, except that statistics or tables resulting from such data shall be admissible and may be received as evidence. This section shall not affect the right of any patient or such patient's guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish such patient's hospital record to such patient's representatives upon written authorization, or the admissibility in evidence thereof.

(i) No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient, unless otherwise provided in K.S.A. 65-2422d, and amendments thereto. Nothing in this section shall prohibit the publication by the secretary of health and environment or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, which reports or compilations do not identify individuals, associations, corporations or institutions which were the subjects of such studies, or reveal sources of information.

66-2020. (a) For the purposes of this section:

(1) "Wireless services" means services as defined in K.S.A. 66-2019(a)(19), and amendments thereto;

(2) "wireless services provider" means a provider or reseller of wireless services, as defined in K.S.A. 66-2019(a)(24), and amendments thereto.

(b) At a hearing on a petition filed pursuant to the protection from abuse act, K.S.A. 60-3101 et seq., and amendments thereto, or the protection from stalking or sexual assault act, K.S.A. 60-31a01 et seq., and amendments thereto, in order to ensure that the petitioner may maintain an existing wireless telephone number and the wireless numbers of any minor children in the care of the petitioner, the court may issue an order directing a wireless services provider to transfer the billing responsibility for and rights to the wireless telephone number or numbers to the petitioner if the petitioner is not the account holder. The clerk of the court shall supply the forms for the petition and order, which shall be prescribed by the judicial council.

(c) (1) The order transferring billing responsibility for and rights to the wireless telephone number or numbers to a petitioner shall be a separate order that is directed to the wireless services provider. The order shall list:

(A) The name and billing telephone number of the account holder;

(B) the name and contact information of the person to whom the telephone number or numbers will be transferred; and

(C) each telephone number to be transferred to the petitioner.

(2) When an order issued under this section is made in conjunction with a petition filed under the protection from stalking or sexual assault act, K.S.A. 60-31a01 et seq., and amendments thereto, the court shall ensure the petitioner's address and telephone number are not disclosed to the account holder. When an order issued under this section is made in conjunction with a petition filed under the protection from abuse act, K.S.A. 60-3101 et seq., and amendments thereto, and the court finds the petitioner's address, telephone number, or both, need to remain confidential pursuant to K.S.A. 60-3104(c), and amendments thereto, the court shall direct that the petitioner's information remain confidential.

(3) The order shall be served on the wireless services provider's agent for service of process listed with the secretary of state.

(4) The wireless services provider shall notify the petitioner if the wireless services provider cannot operationally or technically effectuate the order due to circumstances including, but not limited to:

(A) The account holder has already terminated the account;

(B) differences in network technology prevent the functionality of a device on the network; or

(C) geographic or other limitations on network or service availability.

(d) (1) Upon transfer of billing responsibility for and rights to a wireless telephone number or numbers to a petitioning party pursuant to subsection (b), the petitioner shall assume all financial responsibility for the transferred wireless telephone number or numbers, monthly service costs and costs for any wireless device associated with the wireless telephone number or numbers.

(2) This section shall not prohibit a wireless services provider from applying any routine and customary requirements for account establishment to the petitioner as part of the transfer of billing responsibility for a wireless telephone number or numbers and any devices attached to that number or numbers, including, but not limited to, identification, financial information and customer preferences. The wireless services provider shall not charge a fee for the services provided pursuant to this section.

(e) This section shall not affect the ability of the court to apportion the assets and debts of the petitioner and account holder or the ability to determine the temporary use, possession and control of personal property pursuant to K.S.A. 23-2802, and amendments thereto.

(f) Notwithstanding any other provision of law, no wireless services provider, its officers, employees, assigns or agents shall be liable for civil damages or criminal liability in connection with compliance with any order issued pursuant to this section or for any failure to process any order issued pursuant to this section.

(g) Any wireless services provider operating in the state of Kansas shall adhere to a court order issued pursuant to this act.

65-28b08. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2022 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto; or

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2022 Supp. 21-5903, and amendments thereto.

(c) As used in this section, "professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
 - (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
 - (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.
- (d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.
- (e) The provisions of this section shall become effective on January 1, 2017.

74-5611a. (a) (1) The commission shall establish and maintain a central registry of all Kansas police officers or law enforcement officers.

(2) The purpose of the registry is to be a resource for all agencies who appoint or elect police or law enforcement officers to use when reviewing employment applications of such officers. The registry shall include all records received or created by the commission pursuant to this section and all records related to violations of the Kansas law enforcement training act, including, but not limited to, records of complaints received or maintained by the commission.

(3) All records contained in the registry are confidential and shall not be disclosed pursuant to the Kansas open records act, except such records may be disclosed as provided in subsections (a)(4) and (a)(5) and the Kansas administrative procedure act. The provisions of this paragraph shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.

(4) Records contained in the registry, other than investigative files, shall be disclosed:

(A) To an agency that certifies, appoints or elects police or law enforcement officers;

(B) to the person who is the subject of the information, but the commission may require disclosure in such a manner as to prevent identification of any other person who is the subject or source of the information;

(C) in any proceeding conducted by the commission in accordance with the Kansas administrative procedure act, or in an appeal of an order of the commission entered in a proceeding, or to a party in such proceeding or that party's attorney;

(D) to a municipal, state or federal licensing, regulatory or enforcement agency with jurisdiction over acts or conduct similar to acts or conduct that would constitute grounds for action under this act; and

(E) to the director of police training when such disclosure is relevant to the exercise of the authority granted in K.S.A. 74-5604a(b), and amendments thereto.

- (5) The following records may be disclosed to any person pursuant to the Kansas open records act:
- (A) A record containing only:
- (i) A police or law enforcement officer's name;
 - (ii) the name of a police or law enforcement officer's current employer;
 - (iii) the police or law enforcement officer's dates of employment with the police or law enforcement officer's current employer;
 - (iv) the name of previous law enforcement employers and the dates of employment with each employer;
 - (v) a summary of the trainings completed by the police or law enforcement officer as reported to the commission; and
 - (vi) the status of the police or law enforcement officer's certification under this act; and
- (B) statewide summary data without personally identifiable information.
- (6) The provisions of K.S.A. 45-221(a), and amendments thereto, shall apply to any records disclosed pursuant to subsection (a)(4) or (a)(5).
- (b) The director shall provide forms for registration and shall refuse any registration not submitted on such form in full detail.
- (c) Within 30 days of appointment, election or termination, every city, county and state agency, every school district and every community college shall submit the name of any person appointed or elected to or terminated from the position of police officer or law enforcement officer within its jurisdiction.
- (d) Upon termination, the agency head shall include a report explaining the circumstances under which the officer resigned or was terminated. Such termination report shall be available to the terminated officer and any law enforcement agency to which the terminated officer later applies for a position as a police officer or law enforcement officer. The terminated officer may submit a written statement in response to the termination and any such statement shall be included in the registry file concerning such officer. The director shall adopt a format for the termination report.
- (e) The agency, agency head and any officer or employee of the agency shall be absolutely immune from civil liability:
- (1) For the report made in accordance with subsection (d); and
 - (2) when responding in writing to a written request concerning a current or former officer from a prospective law enforcement agency of that officer for the report made in accordance with subsection (d) and for the disclosure of such report.

75-7240. The executive branch agency heads shall:

- (a) Be solely responsible for security of all data and information technology resources under such agency's purview, irrespective of the location of the data or resources. Locations of data may include: (1) Agency sites; (2) agency real property; (3) infrastructure in state data centers; (4) third-party locations; and (5) in transit between locations;
- (b) ensure that an agency-wide information security program is in place;
- (c) designate an information security officer to administer the agency's information security program that reports directly to executive leadership;
- (d) participate in CISO-sponsored statewide cybersecurity program initiatives and services;
- (e) implement policies and standards to ensure that all the agency's data and information technology resources are maintained in compliance with applicable state and federal laws and rules and regulations;
- (f) implement appropriate cost-effective safeguards to reduce, eliminate or recover from identified threats to data and information technology resources;
- (g) include all appropriate cybersecurity requirements in the agency's request for proposal specifications for procuring data and information technology systems and services;
- (h) (1) submit a cybersecurity assessment report to the CISO by October 16 of each even-numbered year, including an executive summary of the findings, that assesses the extent to which a computer, a computer program, a computer network, a computer system, a printer, an interface to a computer system, including mobile and peripheral devices, computer software, or the data processing of the agency or of a contractor of the agency is vulnerable to unauthorized access or harm, including the extent to which the agency's or contractor's electronically stored information is vulnerable to alteration, damage, erasure or inappropriate use;
- (2) ensure that the agency conducts annual internal assessments of its security program. Internal assessment results shall be considered confidential and shall not be subject to discovery by or release to any person or agency outside of the KISO or CISO. This provision regarding confidentiality shall expire on July 1, 2023, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023; and
- (3) prepare or have prepared a summary of the cybersecurity assessment report required in paragraph (1), excluding information that might put the data or information resources of the agency or its contractors at risk and submit such report to the house of representatives committee on government, technology and security or its successor committee and the senate committee on ways and means;
- (i) participate in annual agency leadership training to ensure understanding of: (1) The information and information systems that support the operations and assets of the agency; (2) the potential impact of common types of cyberattacks and data breaches on the agency's operations and assets; (3) how cyberattacks and data breaches on the agency's operations and assets could impact the operations and assets of other governmental entities on the state enterprise network; (4) how cyberattacks and data breaches occur; (5) steps to be undertaken by the executive director or agency head and agency employees to protect their information and information systems; and (6) the annual reporting requirements required of the executive director or agency head; and

(j) ensure that if an agency owns, licenses or maintains computerized data that includes personal information, confidential information or information, the disclosure of which is regulated by law, such agency shall, in the event of a breach or suspected breach of system security or an unauthorized exposure of that information:

(1) Comply with the notification requirements set out in K.S.A. 2022 Supp. 50-7a01 et seq., and amendments thereto, and applicable federal laws and rules and regulations, to the same extent as a person who conducts business in this state; and

(2) not later than 48 hours after the discovery of the breach, suspected breach or unauthorized exposure, notify: (A) The CISO; and (B) if the breach, suspected breach or unauthorized exposure involves election data, the secretary of state.

75-7242. Information collected to effectuate this act shall be considered confidential by the executive branch agency and KISO unless all data elements or information that specifically identifies a target, vulnerability or weakness that would place the organization at risk have been redacted, including: (a) System information logs; (b) vulnerability reports; (c) risk assessment reports; (d) system security plans; (e) detailed system design plans; (f) network or system diagrams; and (g) audit reports. The provisions of this section shall expire on July 1, 2023, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.