

Statutory Text of New and Substantially Amended Kansas Open Records Exceptions  
(certified for 2021 legislative session; in K.S.A. order)

**9-513c.** (a) Notwithstanding any other provision of law, all information or reports obtained and prepared by the commissioner in the course of licensing or examining a person engaged in money transmission business shall be confidential and may not be disclosed by the commissioner except as provided in subsection (c) or (d).

(b) All confidential information shall be the property of the state of Kansas and shall not be subject to disclosure except upon the written approval of the state bank commissioner.

(c) (1) The commissioner shall have the authority to share supervisory information, including reports of examinations, with other state or federal agencies having regulatory authority over the person's money transmission business and shall have the authority to conduct joint examinations with other regulatory agencies.

(2) The requirements under any federal or state law regarding the confidentiality of any information or material provided to the nationwide multi-state licensing system, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of confidentiality protections provided by federal and state laws.

(d) The commissioner may provide for the release of information to law enforcement agencies or prosecutorial agencies or offices who shall maintain the confidentiality of the information.

(e) The commissioner may accept a report of examination or investigation from another state or federal licensing agency, in which the accepted report is an official report of the commissioner. Acceptance of an examination or investigation report does not waive any fee required by this act.

(f) Nothing shall prohibit the commissioner from releasing to the public a list of persons licensed or their agents or from releasing aggregated financial data on such persons.

(g) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

**9-2209.** (a) The commissioner may exercise the following powers:

- (1) Adopt rules and regulations as necessary to carry out the intent and purpose of this act and to implement the requirements of applicable federal law;
- (2) make investigations and examinations of the licensee's or registrant's operations, books and records as the commissioner deems necessary for the protection of the public and control access to any documents and records of the licensee or registrant under examination or investigation;
- (3) charge reasonable costs of investigation, examination and administration of this act, to be paid by the applicant, licensee or registrant. The commissioner shall establish such fees in such amounts as the commissioner may determine to be sufficient to meet the budget requirements of the commissioner for each fiscal year. Charges for administration of this act shall be based on the licensee's loan volume;
- (4) order any licensee or registrant to cease any activity or practice which the commissioner deems to be deceptive, dishonest, violative of state or federal law or unduly harmful to the interests of the public;
- (5) exchange any information regarding the administration of this act with any agency of the United States or any state which regulates the licensee or registrant or administers statutes, rules and regulations or programs related to mortgage business and to enter into information sharing arrangements with other governmental agencies or associations representing governmental agencies which are deemed necessary or beneficial to the administration of this act;
- (6) disclose to any person or entity that an applicant's, licensee's or registrant's application, license or registration has been denied, suspended, revoked or refused renewal;
- (7) require or permit any person to file a written statement, under oath or otherwise as the commissioner may direct, setting forth all the facts and circumstances concerning any apparent violation of this act, or any rule and regulation promulgated thereunder or any order issued pursuant to this act;
- (8) receive, as a condition in settlement of any investigation or examination, a payment designated for consumer education to be expended for such purpose as directed by the commissioner;
- (9) require that any applicant, registrant, licensee or other person successfully passes a standardized examination designed to establish such person's knowledge of mortgage business transactions and all applicable state and federal law. Such examinations shall be created and administered by the commissioner or the commissioner's designee, and may be made a condition of application approval or application renewal;
- (10) require that any applicant, licensee, registrant or other person complete a minimum number of preclicensing education hours and complete continuing education hours on an annual basis. Preclicensing and continuing education courses shall be approved by the commissioner, or the commissioner's designee, and may be made a condition of application approval and renewal;
- (11) require fingerprinting of any applicant, registrant, licensee, members thereof if a copartnership or association, or officers and directors thereof if a corporation, or any agent acting on their behalf, or other person as deemed appropriate by the commissioner. The commissioner or the commissioner's designee, may submit such fingerprints to the Kansas bureau of investigation, federal bureau of investigation or other law enforcement agency for the purposes of verifying the identity of such persons and obtaining records of their criminal arrests and convictions. For the purposes of this section and in order to reduce the points of contact which the federal bureau of investigation may have to maintain with the individual states, the commissioner may use the nationwide mortgage licensing system and registry as a channeling agent for requesting information from and distributing information to the department of justice or any governmental agency;

(12) refer such evidence as may be available concerning any violation of this act or of any rule and regulation or order hereunder to the attorney general, or in consultation with the attorney general to the proper county or district attorney, who may in such prosecutor's discretion, with or without such a referral, institute the appropriate criminal proceedings under the laws of this state;

(13) issue and apply to enforce subpoenas in this state at the request of a comparable official of another state if the activities constituting an alleged violation for which the information is sought would be a violation of the Kansas mortgage business act if the activities had occurred in this state;

(14) use the nationwide mortgage licensing system and registry as a channeling agent for requesting and distributing any information regarding loan originator or mortgage company licensing to and from any source so directed by the commissioner;

(15) establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities to collect and maintain records and process transaction fees or other fees related to applicants, licensees, registrants or other persons subject to this act and to take such other actions as may be reasonably necessary to participate in the nationwide mortgage licensing system and registry. The commissioner shall regularly report violations of law, as well as enforcement actions and other relevant information to the nationwide mortgage licensing system and registry;

(16) require any licensee or registrant to file reports with the nationwide mortgage licensing system and registry in the form prescribed by the commissioner or the commissioner's designee;

(17) receive and act on complaints, take action designed to obtain voluntary compliance with the provisions of the Kansas mortgage business act or commence proceedings on the commissioner's own initiative;

(18) provide guidance to persons and groups on their rights and duties under the Kansas mortgage business act;

(19) enter into any informal agreement with any mortgage company for a plan of action to address violations of law. The adoption of an informal agreement authorized by this paragraph 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 paragraph shall not be considered an order or other agency action, and shall be considered confidential examination material pursuant to K.S.A. 9-2217, 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 paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021; and

(20) issue, amend and revoke written administrative guidance documents in accordance with the applicable provisions of the Kansas administrative procedure act.

(b) For the purpose of any examination, investigation or proceeding under this act, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel such witnesses' attendance, adduce evidence and require the production of any matter which is relevant to the examination or investigation, including the existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of relevant information or items.

(c) In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of competent jurisdiction, upon application by the commissioner, may issue to that person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Any failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture. No individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which such person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that the individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(e) Except for refund of an excess charge, no liability is imposed under the Kansas mortgage business act for an act done or omitted in conformity with a rule and regulation or written administrative interpretation of the commissioner in effect at the time of the act or omission, notwithstanding that after the act or omission, the rule and regulation or written administrative interpretation may be determined by judicial or other authority to be invalid for any reason.

**12-5374.** (a) (1) Except for the amounts withheld by the LCPA pursuant to K.S.A. 2020 Supp. 12-5368(b), and amendments thereto, and any amounts withheld pursuant to K.S.A. 2020 Supp. 12-5364(1), and amendments thereto, not later than 30 days after the receipt of moneys from providers pursuant to K.S.A. 2020 Supp. 12-5370 and 12-5371, and amendments thereto, and the department pursuant to K.S.A. 2020 Supp. 12-5372, and amendments thereto, the LCPA shall distribute such moneys to the PSAPs. The amount of money distributed to the PSAPs in each county shall be based upon the amount of 911 fees collected from service users located in that county, based on place of primary use information provided by the providers, by using the following distribution method:

Population of county where PSAP is located	Percentage of collected 911 fees to distribute
Over 80,000.....	82%
65,000 to 79,999.....	85%
55,000 to 64,999.....	88%
45,000 to 54,999.....	91%
35,000 to 44,999.....	94%
25,000 to 34,999.....	97%
Less than 25,000.....	100%

(2) There shall be a minimum county distribution of \$60,000 and no county shall receive less than \$60,000 of direct distribution moneys. If there is more than one PSAP in a county then the direct distribution allocated to that county by population shall be deducted from the minimum county distribution and the difference shall be proportionately divided between the PSAPs in the county. All moneys remaining after distribution, moneys withheld pursuant to K.S.A. 2020 Supp. 12-5368(b)(1), and amendments thereto, and any moneys that cannot be attributed to a specific PSAP shall be transferred to the 911 operations fund.

(b) All fees remitted to the LCPA shall be deposited in the 911 state fund and for the purposes of this act be treated as if they are public funds, pursuant to article 14 of chapter 9 of the Kansas Statutes Annotated, and amendments thereto.

(c) All moneys in the 911 state fund that have been collected from the prepaid wireless 911 fee shall be deposited in the 911 operations fund unless \$3 million of such moneys have been deposited in any given year then all remaining moneys shall be distributed to the counties in an amount proportional to each county's population as a percentage share of the population of the state. For each PSAP within a county, such moneys shall be distributed to each PSAP in an amount proportional to the PSAP's population as a percentage share of the population of the county. If there is no PSAP within a county, then such moneys shall be distributed to the PSAP providing service to such county. Such moneys distributed to counties and PSAPs only shall be used for the uses authorized in K.S.A. 2020 Supp. 12-5375, and amendments thereto.

(d) The LCPA shall keep accurate accounts of all receipts and disbursements of moneys from the 911 fees.

(e) Information provided by providers to the local collection point administrator or to the 911 coordinating council pursuant to this act will be treated as proprietary records which will be withheld from the public upon request of the party submitting such records.

(f) The provisions of subsection (e) shall expire on July 1, 2021, unless the legislature acts to reenact such provision. The provisions of subsection (e) shall be reviewed by the legislature prior to July 1, 2021.

**16-335.** (a) Except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to:

- (1) Officers and the members of the board of directors of the cemetery corporation being audited;
- (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and
- (3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a cemetery merchandise trust fund under K.S.A. 16-322, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

(d) This section shall be part of and supplemental to article 3 of chapter 16 of the Kansas Statutes Annotated, and amendments thereto.

**17-1312e.** (a) Except as provided by this section, all information which the secretary of state shall gather or record in making an investigation and examination of any cemetery corporation, or the reporting by the cemetery corporation or the trustee, shall be deemed to be confidential information, and shall not be disclosed by the secretary of state, any assistant, examiner or employee thereof, except to: (1) Officers and the members of the board of directors of the cemetery corporation being audited; (2) the attorney general, when in the opinion of the secretary of state the same should be disclosed; and (3) the appropriate official for the municipality in which the cemetery resides when in the opinion of the secretary of state the same should be disclosed.

(b) Upon request, the secretary of state may disclose to any person whether a cemetery corporation maintains a permanent maintenance fund under K.S.A. 17-1311, and amendments thereto, and whether such funds are maintained in compliance with the provisions of such laws.

(c) The provisions of subsection (a) shall expire on July 1, 2021, unless the legislature acts to reauthorize such provisions. The provisions of subsection (a) shall be reviewed by the legislature prior to July 1, 2021.

**22-2302.** (a) If the magistrate finds from the complaint, or from an affidavit or affidavits filed with the complaint or from sworn testimony, that there is probable cause to believe both that a crime has been committed and that the defendant has committed it, a warrant for the arrest of the defendant shall issue, except that a summons instead of a warrant may be issued if: (1) The prosecuting attorney so requests; or (2) in the case of a complaint alleging commission of a misdemeanor, the magistrate determines that a summons should be issued. More than one warrant or summons may issue on the same complaint. If a defendant fails to appear in response to the summons, a warrant shall issue.

(b) For a warrant or summons executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(c) (1) For a warrant or summons executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section shall not be open to the public until the warrant or summons has been executed. After the warrant or summons has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. Upon entry of appearance by an attorney on behalf of the defendant, or indication by the defendant to the court that such defendant will represent the defendant's self, the clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim. For the purposes of this subsection, victim shall include any victim of an alleged crime that resulted in the issuance of the arrest warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;



(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described 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 or K.S.A. 2020 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the arrest warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

**22-2502.** (a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible. If the magistrate is satisfied that grounds for the application exist or that there is probable cause to believe that they exist, the magistrate may issue a search warrant for:

(1) The search or seizure of the following:

(A) Anything that can be seized under the fourth amendment of the United States constitution;

(B) anything which has been used in the commission of a crime, or any contraband or any property which constitutes or may be considered a part of the evidence, fruits or instrumentalities of a crime under the laws of this state, any other state or of the United States. The term "fruits" as used in this act shall be interpreted to include any property into which the thing or things unlawfully taken or possessed may have been converted;

(C) any person who has been kidnapped in violation of the laws of this state or who has been kidnapped in another jurisdiction and is now concealed within this state;

(D) any human fetus or human corpse;

(E) any biological material, DNA, cellular material, blood, hair or fingerprints;

(F) any person for whom a valid felony arrest warrant has been issued in this state or in another jurisdiction; or

(G) (i) any information concerning the user of an electronic communication service; any information concerning the location of electronic communications systems, including, but not limited to, towers transmitting cellular signals involved in any wire communication; and any other information made through an electronic communications system; or

(ii) the jurisdiction granted in this paragraph shall extend to information held by entities registered to do business in the state of Kansas, submitting to the jurisdiction thereof, and entities primarily located outside the state of Kansas if the jurisdiction in which the entity is primarily located recognizes the authority of the magistrate to issue the search warrant; or

(2) the installation, maintenance and use of a tracking device.

(b) (1) The search warrant under subsection (a)(2) shall authorize the installation and use of the tracking device to track and collect tracking data relating to a person or property for a specified period of time, not to exceed 30 days from the date of the installation of the device.

(2) The search warrant under subsection (a)(2) may authorize the retrieval of the tracking data recorded by the tracking device during the specified period of time for authorized use of such tracking device within a reasonable time after the expiration of such warrant, for good cause shown.

(3) The magistrate may, for good cause shown, grant one or more extensions of a search warrant under subsection (a)(2) for the use of a tracking device, not to exceed 30 days each.

(c) Before ruling on a request for a search warrant, the magistrate may require the affiant to appear personally and may examine under oath the affiant and any witnesses that the affiant may produce. Such proceeding shall be taken down by a certified shorthand reporter or recording equipment and made part of the application for a search warrant.

(d) For a warrant executed prior to July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be made available for examination without a written order of the court, except that such affidavits or testimony when requested shall be made available to the defendant or the defendant's counsel for such disposition as either may desire.

(e) (1) For a warrant executed on or after July 1, 2014, affidavits or sworn testimony in support of the probable cause requirement of this section or search warrants for tracking devices shall not be open to the public until the warrant has been executed. After the warrant has been executed, such affidavits or sworn testimony shall be made available to:

(A) The defendant or the defendant's counsel, when requested, for such disposition as either may desire; and

(B) any person, when requested, in accordance with the requirements of this subsection.

(2) Any person may request that affidavits or sworn testimony be disclosed by filing such request with the clerk of the court. The clerk of the court shall promptly notify the defendant or the defendant's counsel, the prosecutor and the magistrate that such request was filed. The prosecutor shall promptly notify any victim.

(3) Within five business days after receiving notice of a request for disclosure from the clerk of the court, the defendant or the defendant's counsel and the prosecutor may submit to the magistrate, under seal, either:

(A) Proposed redactions, if any, to the affidavits or sworn testimony and the reasons supporting such proposed redactions; or

(B) a motion to seal the affidavits or sworn testimony and the reasons supporting such proposed seal.

(4) The magistrate shall review the requested affidavits or sworn testimony and any proposed redactions or motion to seal submitted by the defendant, the defendant's counsel or the prosecutor. The magistrate shall make appropriate redactions, or seal the affidavits or sworn testimony, as necessary to prevent public disclosure of information that would:

(A) Jeopardize the physical, mental or emotional safety or well-being of a victim, witness, confidential source or undercover agent, or cause the destruction of evidence;

(B) reveal information obtained from a court-ordered wiretap or from a search warrant for a tracking device that has not expired;

(C) interfere with any prospective law enforcement action, criminal investigation or prosecution;

(D) reveal the identity of any confidential source or undercover agent;

(E) reveal confidential investigative techniques or procedures not known to the general public;

(F) endanger the life or physical safety of any person;

(G) reveal the name, address, telephone number or any other information which specifically and individually identifies the victim of any sexual offense described 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 or K.S.A. 2020 Supp. 21-6419 through 21-6422, and amendments thereto;

(H) reveal the name of any minor;

(I) reveal any date of birth, personal or business telephone number, driver's license number, nondriver's identification number, social security number, employee identification number, taxpayer identification number, vehicle identification number or financial account information; or

(J) constitute a clearly unwarranted invasion of personal privacy. As used in this subparagraph, "clearly unwarranted invasion of personal privacy" means revealing information that would be highly offensive to a reasonable person and is totally unrelated to the alleged crime that resulted in the issuance of the search warrant, including information totally unrelated to the alleged crime that may pose a risk to a person or property and is not of legitimate concern to the public. The provisions of this subparagraph shall only be used to redact and shall not be used to seal affidavits or sworn testimony.

(5) Within five business days after receiving proposed redactions or a motion to seal from the defendant, the defendant's counsel or the prosecutor, or within 10 business days after receiving notice of a request for disclosure, whichever is earlier, the magistrate shall either:

(A) Order disclosure of the affidavits or sworn testimony with appropriate redactions, if any; or

(B) order the affidavits or sworn testimony sealed and not subject to public disclosure.

(6) (A) If the magistrate orders disclosure of the affidavits or sworn testimony with appropriate redactions, if any, to any person in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record and shall be accessible to the public.

(B) If the magistrate orders the affidavits or sworn testimony sealed and not subject to public disclosure in accordance with the requirements of this subsection, then such affidavits or sworn testimony shall become part of the court record that is not accessible to the public.

(C) Any request for disclosure of affidavits or sworn testimony in accordance with the requirements of this subsection shall become part of the court record and shall be accessible to the public, regardless of whether the magistrate orders disclosure with appropriate redactions, if any, or sealing of the requested affidavit or sworn testimony.

(f) As used in this section:

(1) "Electronic communication" means the use of electronic equipment to send or transfer a copy of an original document;

(2) "electronic communication service" and "electronic communication system" have the meaning as defined in K.S.A. 22-2514, and amendments thereto;

(3) "tracking data" means information gathered or recorded by a tracking device;

(4) "tracking device" means an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object. "Tracking device" includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and a device that allows for the real-time monitoring of movement; and

(5) "victim" shall include any victim of an alleged crime that resulted in the issuance of the search warrant, or, if the victim is deceased, the victim's family, as defined in K.S.A. 74-7335, and amendments thereto.

(g) Nothing in this section shall be construed as requiring a search warrant for cellular location information in an emergency situation pursuant to K.S.A. 22-4615, and amendments thereto.

**25-2309.** (a) Any person may apply in person, by mail, through a voter registration agency, or by other delivery to a county election officer to be registered. Such application shall be made on: (1) A form approved by the secretary of state, which shall be provided by a county election officer or chief state election official upon request in person, by telephone or in writing; or (2) the national mail voter registration form issued pursuant to federal law.

Such application shall be signed by the applicant under penalty of perjury and shall contain the original signature of the applicant or the computerized, electronic or digitized transmitted signature of the applicant. A signature may be made by mark, initials, typewriter, print, stamp, symbol or any other manner if by placing the signature on the document the person intends the signature to be binding. A signature may be made by another person at the voter's direction if the signature reflects such voter's intention.

(b) Applications made under this section shall give voter eligibility requirements and such information as is necessary to prevent duplicative voter registrations and enable the relevant election officer to assess the eligibility of the applicant and to administer voter registration, including, but not limited to, the following data to be kept by the relevant election officer as provided by law:

- (1) Name;
- (2) place of residence, including specific address or location, and mailing address if the residence address is not a permissible postal address;
- (3) date of birth;
- (4) sex;
- (5) the last four digits of the person's social security number or the person's full driver's license or nondriver's identification card number;
- (6) telephone number, if available;
- (7) naturalization data (if applicable);
- (8) if applicant has previously registered or voted elsewhere, residence at time of last registration or voting;
- (9) when present residence established;
- (10) name under which applicant last registered or voted, if different from present name;
- (11) an attestation that the applicant meets each eligibility requirement;
- (12) a statement that the penalty for submission of a false voter registration application is a maximum presumptive sentence of 17 months in prison;
- (13) a statement that, if an applicant declines to register to vote, the fact that the applicant has declined to register will remain confidential and will be used only for voter registration purposes;
- (14) a statement that if an applicant does register to vote, the office to which a voter registration application is submitted will remain confidential and will be used only for voter registration purposes;
- (15) boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States, together with the question "Are you a citizen of the United States of America?";

(16) boxes for the county election officer or chief state election official to check to indicate whether the applicant has provided with the application the information necessary to assess the eligibility of the applicant, including such applicant's United States citizenship;

(17) boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day, together with the question "Will you be 18 years of age on or before election day?";

(18) in reference to paragraphs (15) and (17) the statement "If you checked 'no' in response to either of these questions, do not complete this form.";

(19) a statement that the applicant shall be required to provide identification when voting; and

(20) political party affiliation declaration, if any. An applicant's failure to make a declaration will result in the applicant being registered as an unaffiliated voter.

If the application discloses any previous registration in any other county or state, as indicated by paragraph (8) or (10), or otherwise, the county election officer shall upon the registration of the applicant, give notice to the election official of the place of former registration, notifying such official of applicant's present residence and registration, and authorizing cancellation of such former registration. This section shall be interpreted and applied in accordance with federal law. No eligible applicant whose qualifications have been assessed shall be denied registration.

(c) Any person who applies for registration through a voter registration agency shall be provided with, in addition to the application under subsection (b), a form which includes:

(1) The question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

(2) a statement that if the applicant declines to register to vote, this decision will remain confidential and be used only for voter registration purposes;

(3) a statement that if the applicant does register to vote, information regarding the office to which the application was submitted will remain confidential and be used only for voter registration purposes; and

(4) if the agency provides public assistance: (i) The statement "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

(ii) boxes for the applicant to check to indicate whether the applicant would like to register or declines to register to vote, together with the statement "IF YOU DO NOT CHECK EITHER BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

(iii) the statement "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."; and

(iv) the statement "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the Kansas Secretary of State."

(d) If any person, in writing, declines to register to vote, the voter registration agency shall maintain the form prescribed by subsection (c).

(e) A voter registration agency shall transmit the completed registration application to the county election officer not later than five days after the date of acceptance. Upon receipt of an application for registration, the county election officer shall send, by nonforwardable mail, a notice of disposition of the application to the applicant at the

postal delivery address shown on the application. If a notice of disposition is returned as undeliverable, a confirmation mailing prescribed by K.S.A. 25-2316c, and amendments thereto, shall occur.

(f) If an application is received while registration is closed, such application shall be considered to have been received on the next following day during which registration is open.

(g) A person who completes an application for voter registration shall be considered a registered voter when the county election officer adds the applicant's name to the county voter registration list.

(h) Any registered voter whose residence address is not a permissible postal delivery address shall designate a postal address for registration records. When a county election officer has reason to believe that a voter's registration residence is not a permissible postal delivery address, the county election officer shall attempt to determine a proper mailing address for the voter.

(i) Any registered voter may request that such person's residence address be concealed from public inspection on the voter registration list and on the original voter registration application form. Such request shall be made in writing to the county election officer, and shall specify a clearly unwarranted invasion of personal privacy or a threat to the voter's safety. Upon receipt of such a request, the county election officer shall take appropriate steps to ensure that such person's residence address is not publicly disclosed. Nothing in this subsection shall be construed as requiring or authorizing the secretary of state to include on the voter registration application form a space or other provision on the form that would allow the applicant to request that such applicant's residence address be concealed from public inspection.

(j) No application for voter registration shall be made available for public inspection or copying unless the information required by subsection (b)(5) has been removed or otherwise rendered unreadable.

(k) If an applicant fails to answer the question prescribed in subsection (b)(15), the county election officer shall send the application to the applicant at the postal delivery address given on the application, by nonforwardable mail, with a notice of incompleteness. The notice shall specify a period of time during which the applicant may complete the application in accordance with K.S.A. 25-2311, and amendments thereto, and be eligible to vote in the next election.

(l) The county election officer or secretary of state's office shall accept any completed application for registration, but an applicant shall not be registered until the applicant has provided satisfactory evidence of United States citizenship. Evidence of United States citizenship as required in this section will be satisfied by presenting one of the documents listed in subsections (1)(1) through (1)(13) in person at the time of filing the application for registration or by including a photocopy of one of the following documents with a mailed registration application. After a person has submitted satisfactory evidence of citizenship, the county election officer shall indicate this information in the person's permanent voter file. Evidence of United States citizenship shall be satisfied by providing one of the following, or a legible photocopy of one of the following documents:

(1) The applicant's driver's license or nondriver's identification card issued by the division of vehicles or the equivalent governmental agency of another state within the United States if the agency indicates on the applicant's driver's license or nondriver's identification card that the person has provided satisfactory proof of United States citizenship;

(2) the applicant's birth certificate that verifies United States citizenship to the satisfaction of the county election officer or secretary of state;

(3) pertinent pages of the applicant's United States valid or expired passport identifying the applicant and the applicant's passport number, or presentation to the county election officer of the applicant's United States passport;



- (4) the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration rolls until the number of the certificate of naturalization is verified with the United States bureau of citizenship and immigration services by the county election officer or the secretary of state, pursuant to 8 U.S.C. § 1373(c);
  - (5) other documents or methods of proof of United States citizenship issued by the federal government pursuant to the immigration and nationality act of 1952, and amendments thereto;
  - (6) the applicant's bureau of Indian affairs card number, tribal treaty card number or tribal enrollment number;
  - (7) the applicant's consular report of birth abroad of a citizen of the United States of America;
  - (8) the applicant's certificate of citizenship issued by the United States citizenship and immigration services;
  - (9) the applicant's certification of report of birth issued by the United States department of state;
  - (10) the applicant's American Indian card, with KIC classification, issued by the United States department of homeland security;
  - (11) the applicant's final adoption decree showing the applicant's name and United States birthplace;
  - (12) the applicant's official United States military record of service showing the applicant's place of birth in the United States; or
  - (13) an extract from a United States hospital record of birth created at the time of the applicant's birth indicating the applicant's place of birth in the United States.
- (m) If an applicant is a United States citizen but does not have any of the documentation listed in this section as satisfactory evidence of United States citizenship, such applicant may submit any evidence that such applicant believes demonstrates the applicant's United States citizenship.
- (1) Any applicant seeking an assessment of evidence under this subsection may directly contact the elections division of the secretary of state by submitting a voter registration application or form as described by this section and any supporting evidence of United States citizenship. Upon receipt of this information, the secretary of state shall notify the state election board, as established under K.S.A. 25-2203, and amendments thereto, that such application is pending.
  - (2) The state election board shall give the applicant an opportunity for a hearing and an opportunity to present any additional evidence to the state election board. Notice of such hearing shall be given to the applicant at least five days prior to the hearing date. An applicant shall have the opportunity to be represented by counsel at such hearing.
  - (3) The state election board shall assess the evidence provided by the applicant to determine whether the applicant has provided satisfactory evidence of United States citizenship. A decision of the state election board shall be determined by a majority vote of the election board.
  - (4) If an applicant submits an application and any supporting evidence prior to the close of registration for an election cycle, a determination by the state election board shall be issued at least five days before such election date.
  - (5) If the state election board finds that the evidence presented by such applicant constitutes satisfactory evidence of United States citizenship, such applicant will have met the requirements under this section to provide satisfactory evidence of United States citizenship.

(6) If the state election board finds that the evidence presented by an applicant does not constitute satisfactory evidence of United States citizenship, such applicant shall have the right to appeal such determination by the state election board by instituting an action under 8 U.S.C. § 1503. Any negative assessment of an applicant's eligibility by the state election board shall be reversed if the applicant obtains a declaratory judgment pursuant to 8 U.S.C. § 1503, demonstrating that such applicant is a national of the United States.

(n) Any person who is registered in this state on the effective date of this amendment to this section is deemed to have provided satisfactory evidence of citizenship and shall not be required to resubmit evidence of citizenship.

(o) For purposes of this section, proof of voter registration from another state is not satisfactory evidence of United States citizenship.

(p) A registered Kansas voter who moves from one residence to another within the state of Kansas or who modifies such voter's registration records for any other reason shall not be required to submit evidence of United States citizenship.

(q) If evidence of citizenship is deemed to be unsatisfactory due to an inconsistency between the document submitted as evidence and the name or sex provided on the application for registration, such applicant may sign an affidavit:

(1) Stating the inconsistency or inconsistencies related to the name or sex, and the reason therefor; and

(2) swearing under oath that, despite the inconsistency, the applicant is the individual reflected in the document provided as evidence of citizenship. However, there shall be no inconsistency between the date of birth on the document provided as evidence of citizenship and the date of birth provided on the application for registration. If such an affidavit is submitted by the applicant, the county election officer or secretary of state shall assess the eligibility of the applicant without regard to any inconsistency stated in the affidavit.

(r) All documents submitted as evidence of citizenship shall be kept confidential by the county election officer or the secretary of state and maintained as provided by Kansas record retention laws. The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.

(s) The secretary of state may adopt rules and regulations in order to implement the provisions of this section.

(t) Nothing in this section shall prohibit an applicant from providing, or the secretary of state or county election officer from obtaining satisfactory evidence of United States citizenship, as described in subsection (1), at a different time or in a different manner than an application for registration is provided, as long as the applicant's eligibility can be adequately assessed by the secretary of state or county election officer as required by this section.

**40-2,118.** (a) For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

(b) An insurer that has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed shall provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may require.

(c) Any other person who has knowledge or a good faith belief that a fraudulent insurance act is being or has been committed may provide to the commissioner, on a form prescribed by the commissioner, any and all information and such additional information relating to such fraudulent insurance act as the commissioner may request.

(d) (1) Each insurer shall have antifraud initiatives reasonably calculated to detect fraudulent insurance acts. Antifraud initiatives may include fraud investigators, who may be insurer employees or independent contractors and an antifraud plan submitted to the commissioner no later than July 1, 2007. Each insurer that submits an antifraud plan shall notify the commissioner of any material change in the information contained in the antifraud plan within 30 days after such change occurs. Such insurer shall submit to the commissioner in writing the amended antifraud plan.

The requirement for submitting any antifraud plan, or any amendment thereof, to the commissioner shall expire on the date specified in subsection (d)(2) unless the legislature reviews and reenacts the provisions of subsection (d)(2) prior to such date.

(2) Any antifraud plan, or any amendment thereof, submitted to the commissioner for informational purposes only shall be confidential and not be a public record and shall not be subject to discovery or subpoena in a civil action unless following an in camera review, the court determines that the antifraud plan is relevant and otherwise admissible under the rules of evidence set forth in article 4 of chapter 60 of the Kansas Statutes Annotated, and amendments thereto. The provisions of this paragraph shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.

(e) Except as otherwise specifically provided in K.S.A. 2020 Supp. 21-5812(a), and amendments thereto, and K.S.A. 44-5,125, and amendments thereto, a fraudulent insurance act shall constitute a severity level 6, nonperson felony if the amount involved is \$25,000 or more; a severity level 7, nonperson felony if the amount involved is at least \$5,000 but less than \$25,000; a severity level 8, nonperson felony if the amount involved is at least \$1,000 but less than \$5,000; and a class C nonperson misdemeanor if the amount involved is less than \$1,000. Any combination of fraudulent acts as defined in subsection (a) which occur in a period of six consecutive months which involves \$25,000 or more shall have a presumptive sentence of imprisonment regardless of its location on the sentencing grid block.

(f) In addition to any other penalty, a person who violates this statute shall be ordered to make restitution to the insurer or any other person or entity for any financial loss sustained as a result of such violation. An insurer shall not be required to provide coverage or pay any claim involving a fraudulent insurance act.

(g) For the purposes of this section:

(1) "Amount involved" means the greater of: (A) The actual pecuniary harm resulting from the fraudulent insurance act; (B) the pecuniary harm that was intended to result from the fraudulent insurance act; or (C) the intended pecuniary harm that would have been impossible or unlikely to occur, such as in a government sting operation or a fraud in which the claim for payment or other benefit pursuant to an insurance policy exceeded the

allowed value. The aggregate dollar amount of the fraudulent claims submitted to the insurance company shall constitute prima facie evidence of the amount of intended loss and is sufficient to establish the aggregate amount involved in the fraudulent insurance act, if not rebutted; and

(2) "pecuniary harm" means harm that is monetary or that otherwise is readily measurable in money, and does not include emotional distress, harm to reputation or other non-economic harm.

(h) This act shall apply to all insurance applications, ratings, claims and other benefits made pursuant to any insurance policy.

**40-4913.** (a) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent if:

(A) The termination is for cause;

(B) such insurance agent has committed any act which would be in violation of any provision of K.S.A. 2020 Supp. 40-4909(a), and amendments thereto; or

(C) such insurer has knowledge that such insurance agent is engaged in any activity which would be in violation of any provision of K.S.A. 2020 Supp. 40-4909(a), and amendments thereto.

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship; and

(C) contain:

(i) The name of the insurance agent; and

(ii) the reason for the termination of the business relationship with such insurer.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents, records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information which would have been reportable under paragraph (1), the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(b) (1) Each insurer shall notify the commissioner whenever such insurer terminates a business relationship with an insurance agent for any reason not listed in subsection (a).

(2) The notification shall:

(A) Be made in a format prescribed by the commissioner;

(B) be submitted to the commissioner within 30 days of the date of the termination of the business relationship.

(3) Upon receipt of a written request from the commissioner, each insurer shall provide to the commissioner any additional data, documents, records or other information concerning the termination of the insurer's business relationship with such agent.

(4) Whenever an insurer discovers or obtains additional information which would have been reportable under paragraph (1), the insurer shall forward such additional information to the commissioner within 30 days of its discovery.

(c) For the purposes of this section, the term "business relationship" shall include any appointment, employment, contract or other relationship under which such insurance agent represents the insurer.

(d) (1) No insurance entity, or any agent or employee thereof acting on behalf of such insurance entity, regulatory official, law enforcement official or the insurance regulatory official of another state who provides information to the commissioner in good faith pursuant to this section shall be subject to a civil action for damages as a result of reporting such information to the commissioner. For the purposes of this section, insurance entity shall mean any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

(2) Any document, material or other information in the control or possession of the department that is furnished by an insurance entity or an employee or agent thereof acting on behalf of such insurance entity, or obtained by the insurance commissioner in an investigation pursuant to this section shall be kept confidential by the commissioner. Such information shall not be made public or subject to subpoena, other than by the commissioner and then only for the purpose of enforcement actions taken by the commissioner pursuant to this act or any other provision of the insurance laws of this state.

(3) Neither the commissioner nor any person who received documents, materials or other information while acting under the authority of the commissioner shall be required to testify in any private civil action concerning any confidential documents, materials or information subject to paragraph (2).

(4) The commissioner may share or exchange any documents, materials or other information, including confidential and privileged documents referred to in subsection (d)(2), received in the performance of the commissioner's duties under this act, with:

(A) The NAIC;

(B) other state, federal or international regulatory agencies; and

(C) other state, federal or international law enforcement authorities.

(5) (A) The sharing or exchanging of documents, materials or other information under this subsection shall be conditioned upon the recipient's authority and agreement to maintain the confidential and privileged status, if any, of the documents, materials or other information being shared or exchanged.

(B) No waiver of an existing privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized by subsection (d)(1).

(6) The commissioner of insurance is hereby authorized to adopt such rules and regulations establishing protocols governing the exchange of information as may be necessary to implement and carry out the provisions of this act.

(e) The provisions of subsection (d)(2) shall expire on July 1, 2021, unless the legislature acts to reenact such provision. The provisions of subsection (d)(2) shall be reviewed by the legislature prior to July 1, 2021.

(f) For the purposes of this section, insurance entity shall mean any insurer, insurance agent or organization to which the commissioner belongs by virtue of the commissioner's office.

(g) Any insurance entity, including any authorized representative of such insurance entity, that fails to report to the commissioner as required under the provisions of this section or that is found by a court of competent jurisdiction to have failed to report in good faith, after notice and hearing, may have its license or certificate of authority suspended or revoked and may be fined in accordance with K.S.A. 2020 Supp. 40-4909, and amendments thereto.

**45-254.** (a) 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 K.S.A. 45-217, and amendments thereto. The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2021.

(b) In addition to any disclosure authorized pursuant to the open records act, K.S.A. 45-215 et seq., and amendments thereto, a person described in subsection (c) may make a request in accordance with procedures adopted under K.S.A. 45-220, and amendments thereto, to listen to an audio recording or to view a video recording made by a body camera or a vehicle camera. The law enforcement agency shall allow the person to listen to the requested audio recording or to view the requested video recording within 20 days after making the request, and may charge a reasonable fee for such services provided by the law enforcement agency.

(c) Any of the following may make a request under subsection (b):

- (1) A person who is a subject of the recording;
- (2) any parent or legal guardian of a person under 18 years of age who is a subject of the recording;
- (3) an heir at law, when a decedent is a subject of the recording; and
- (4) an attorney for a person described in this subsection.

(d) As used in this section:

- (1) "Body camera" means a device that is worn by a law enforcement officer that electronically records audio or video of such officer's activities.
- (2) "Heir at law" means: (A) An executor or an administrator of the decedent; (B) the spouse of the decedent, if living; (C) if there is no living spouse of the decedent, an adult child of the decedent, if living; or (D) if there is no living spouse or adult child of the decedent, a parent of the decedent, if living.
- (3) "Vehicle camera" means a device that is attached to a law enforcement vehicle that electronically records audio or video of law enforcement officers' activities.

**65-6111.** (a) The emergency medical services board shall:

- (1) Adopt any rules and regulations necessary to carry out the provisions of this act;
  - (2) review and approve the allocation and expenditure of moneys appropriated for emergency medical services;
  - (3) conduct hearings for all regulatory matters concerning ambulance services, emergency medical service providers, instructor-coordinators, training officers and sponsoring organizations;
  - (4) submit a budget to the legislature for the operation of the board;
  - (5) develop a state plan for the delivery of emergency medical services;
  - (6) enter into contracts as may be necessary to carry out the duties and functions of the board under this act;
  - (7) review and approve all requests for state and federal funding involving emergency medical services projects in the state or delegate such duties to the executive director;
  - (8) approve all training programs for emergency medical service providers and instructor-coordinators and prescribe certification application fees by rules and regulations;
  - (9) approve methods of examination for certification of emergency medical service providers and instructor-coordinators and prescribe examination fees by rules and regulations;
  - (10) appoint a medical advisory council of not less than six members, including one board member who shall be a physician and not less than five other physicians who are active and knowledgeable in the field of emergency medical services who are not members of the board to advise and assist the board in medical standards and practices as determined by the board. The medical advisory council shall elect a chairperson from among its membership and shall meet upon the call of the chairperson; and
  - (11) approve sponsoring organizations by prescribing standards and requirements by rules and regulations and withdraw or modify such approval in accordance with the Kansas administrative procedure act and the rules and regulations of the board.
- (b) The emergency medical services board may grant a temporary variance from an identified rule or regulation when a literal application or enforcement of the rule or regulation would result in serious hardship and the relief granted would not result in any unreasonable risk to the public interest, safety or welfare.
- (c) (1) In addition to or in lieu of any other administrative, civil or criminal remedy provided by law, the board, in accordance with the Kansas administrative procedure act, upon the finding of a violation of a provision of this act or the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or rules and regulations adopted pursuant to such provisions may impose a fine on:
- (A) Any person granted a certificate by the board in an amount not to exceed \$500 for each violation; or
  - (B) an ambulance service that holds a permit to operate in this state or on a sponsoring organization in an amount not to exceed \$2,500 for each violation.
- (2) All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.



(d) (1) In connection with any investigation by the board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, laboratory, pharmacy, medical care facility or other public or private agency, if such document, report, record or evidence relates to professional competence, unprofessional conduct or the mental or physical ability of the person to perform activities the person is authorized to perform.

(2) For the purpose of all investigations and proceedings conducted by the board:

(A) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to professional competence, unprofessional conduct or the mental or physical ability of a person being investigated to perform activities the person is authorized to perform. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices that may be grounds for disciplinary action, is not relevant to the charge that is the subject matter of the proceeding or investigation or does not describe with sufficient particularity the physical evidence that is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(B) Any person appearing before the board shall have the right to be represented by counsel.

(C) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(i) Requiring such person to appear before the board or the board's duly authorized agent to produce evidence relating to the matter under investigation; or

(ii) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices that may be grounds for disciplinary action, is not relevant to the charge that is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence that is required to be produced.

(3) Disclosure or use of any such information received by the board or of any record containing such information, for any purpose other than that provided by this subsection is a class A misdemeanor and shall constitute grounds for removal from office, termination of employment or denial, revocation or suspension of any certificate or permit issued under article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. Nothing in this subsection shall be construed to make unlawful the disclosure of any such information by the board in a hearing held pursuant to this act.

(4) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this subsection shall be confidential and shall not be disclosed.

(5) Nothing in this subsection or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this subsection. The board and its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this subsection.

(e) The emergency medical services board shall prepare an annual report on or before January 15 of each year on the number, amount and reasons for the fines imposed by the board and the number of and reasons for subpoenas

issued by the board during the previous calendar year. The report shall be provided to the senate committee on federal and state affairs and the house committee on federal and state affairs.

**75-5664.** (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of public health of the department of health and environment as a part thereof.

(b) On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001, the advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(5) Two members shall be emergency medical service providers as defined in K.S.A. 65-6112, and amendments thereto, who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the emergency medical services board or the chairperson's designee shall be an ex officio member.

(10) Four legislators selected as follows shall be members: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under subsection (b)(1) through (b)(7): Six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qualified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) The advisory committee or an officer thereof may advise, report to and discuss activities, information and findings of the committee that relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee or officer that are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto, prior to July 1, 2021.

(3) The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto.

**75-5665.** (a) The secretary of health and environment, after consultation with and consideration of recommendations from the advisory committee, shall:

- (1) Develop rules and regulations necessary to carry out the provisions of this act, including fixing, charging and collecting fees from trauma facilities to recover all or part of the expenses incurred in the designation of trauma facilities pursuant to subsection (f);
- (2) develop a statewide trauma system plan including the establishment of regional trauma councils, using the 2001 Kansas EMS-Trauma Systems Plan study as a guide and not more restrictive than state law. The secretary shall ensure that each council consist of at least six members. Members of the councils shall consist of persons chosen for their expertise in and commitment to emergency medical and trauma services. Such members shall be chosen from the region and include prehospital personnel, physicians, nurses and hospital personnel involved with the emergency medical and trauma services and a representative of a county health department. The plan should:
  - (A) Maximize local and regional control over decisions relating to trauma care;
  - (B) minimize bureaucracy;
  - (C) adequately protect the confidentiality of proprietary and personal health information;
  - (D) promote cost effectiveness;
  - (E) encourage participation by groups affected by the system;
  - (F) emphasize medical direction and involvement at all levels of the system;
  - (G) rely on accurate data as the basis for system planning and development; and
  - (H) facilitate education of health care providers in trauma care;
- (3) plan, develop and administer a trauma registry to collect and analyze data on incidence, severity and causes of trauma and other pertinent information which may be used to support the secretary's decision-making and identify needs for improved trauma care;
- (4) provide all technical assistance to the regional councils as necessary to implement the provisions of this act;
- (5) collect data elements for the trauma registry that are consistent with the recommendations of the American college of surgeons committee on trauma and centers for disease control;
- (6) designate trauma facilities by level of trauma care capabilities after considering the American college of surgeons committee on trauma standards and other states' standards except that trauma level designations shall not be based on criteria that place practice limitations on registered nurse anesthetists which are not required by state law;
- (7) develop a phased-in implementation schedule for each component of the trauma system, including the trauma registry, which considers the additional burden placed on the emergency medical and trauma providers;
- (8) develop standard reports to be utilized by the regional trauma councils and those who report data to the registry in performing their functions;
- (9) assess the fiscal impact on all components of the trauma system, and thereafter recommend other funding sources for the trauma system and trauma registry;

(10) prepare and submit an annual budget in accordance with the provisions of this act. Such budget shall include costs for the provision of technical assistance to the regional trauma councils and the cost of developing and maintaining the trauma registry and analyzing and reporting on the data collected; and

(11) enter into contracts as deemed necessary to carry out the duties and functions of the secretary under this act.

(b) (1) Any meeting of a regional trauma council or any part of a meeting of such a council during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. A regional trauma council and the officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) A regional trauma council or an officer thereof may advise, report to and discuss activities, information and findings of the council which relate to incidents of trauma injury or trauma care with the secretary of health and environment and make reports as provided in this section without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such council or officer which are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto.

(3) The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.