

As Amended by House Committee

Session of 2010

HOUSE BILL No. 2529

By Special Committee on Judiciary

1-25

10 AN ACT concerning open records; relating to exceptions to disclosure;
11 amending K.S.A. 60-3351 and K.S.A. 2009 Supp. ~~38-1664~~ **38-2309**
12 and 45-229 and repealing the existing sections; also repealing K.S.A.
13 74-7405a and K.S.A. 2009 Supp. 79-1437f.

14
15 *Be it enacted by the Legislature of the State of Kansas:*

16 Section 1. K.S.A. 2009 Supp. 45-229 is hereby amended to read as
17 follows: 45-229. (a) It is the intent of the legislature that exceptions to
18 disclosure under the open records act shall be created or maintained only
19 if:

- 20 (1) The public record is of a sensitive or personal nature concerning
21 individuals;
22 (2) the public record is necessary for the effective and efficient ad-
23 ministration of a governmental program; or
24 (3) the public record affects confidential information.

25 The maintenance or creation of an exception to disclosure must be
26 compelled as measured by these criteria. Further, the legislature finds
27 that the public has a right to have access to public records unless the
28 criteria in this section for restricting such access to a public record are
29 met and the criteria are considered during legislative review in connection
30 with the particular exception to disclosure to be significant enough to
31 override the strong public policy of open government. To strengthen the
32 policy of open government, the legislature shall consider the criteria in
33 this section before enacting an exception to disclosure.

34 (b) Subject to the provisions of subsection (h), all exceptions to dis-
35 closure in existence on July 1, 2000, shall expire on July 1, 2005, and any
36 new exception to disclosure or substantial amendment of an existing ex-
37 ception shall expire on July 1 of the fifth year after enactment of the new
38 exception or substantial amendment, unless the legislature acts to con-
39 tinue the exception. A law that enacts a new exception or substantially
40 amends an existing exception shall state that the exception expires at the
41 end of five years and that the exception shall be reviewed by the legis-
42 lature before the scheduled date.

43 (c) For purposes of this section, an exception is substantially amended

1 if the amendment expands the scope of the exception to include more
2 records or information. An exception is not substantially amended if the
3 amendment narrows the scope of the exception.

4 (d) This section is not intended to repeal an exception that has been
5 amended following legislative review before the scheduled repeal of the
6 exception if the exception is not substantially amended as a result of the
7 review.

8 (e) In the year before the expiration of an exception, the revisor of
9 statutes shall certify to the president of the senate and the speaker of the
10 house of representatives, by July 15, the language and statutory citation
11 of each exception which will expire in the following year which meets the
12 criteria of an exception as defined in this section. Any exception that is
13 not identified and certified to the president of the senate and the speaker
14 of the house of representatives is not subject to legislative review and
15 shall not expire. If the revisor of statutes fails to certify an exception that
16 the revisor subsequently determines should have been certified, the re-
17 visor shall include the exception in the following year's certification after
18 that determination.

19 (f) "Exception" means any provision of law which creates an excep-
20 tion to disclosure or limits disclosure under the open records act pursuant
21 to K.S.A. 45-221, and amendments thereto, or pursuant to any other
22 provision of law.

23 (g) A provision of law which creates or amends an exception to dis-
24 closure under the open records law shall not be subject to review and
25 expiration under this act if such provision:

- 26 (1) Is required by federal law;
27 (2) applies solely to the legislature or to the state court system.

28 (h) (1) The legislature shall review the exception before its scheduled
29 expiration and consider as part of the review process the following:

- 30 (A) What specific records are affected by the exception;
31 (B) whom does the exception uniquely affect, as opposed to the gen-
32 eral public;
33 (C) what is the identifiable public purpose or goal of the exception;
34 (D) whether the information contained in the records may be ob-
35 tained readily by alternative means and how it may be obtained;

36 (2) An exception may be created or maintained only if it serves an
37 identifiable public purpose and may be no broader than is necessary to
38 meet the public purpose it serves. An identifiable public purpose is served
39 if the legislature finds that the purpose is sufficiently compelling to over-
40 ride the strong public policy of open government and cannot be accom-
41 plished without the exception and if the exception:

- 42 (A) Allows the effective and efficient administration of a govern-
43 mental program, which administration would be significantly impaired

1 without the exception;

2 (B) protects information of a sensitive personal nature concerning
3 individuals, the release of which information would be defamatory to such
4 individuals or cause unwarranted damage to the good name or reputation
5 of such individuals or would jeopardize the safety of such individuals.
6 Only information that would identify the individuals may be excepted
7 under this paragraph; or

8 (C) protects information of a confidential nature concerning entities,
9 including, but not limited to, a formula, pattern, device, combination of
10 devices, or compilation of information which is used to protect or further
11 a business advantage over those who do not know or use it, the disclosure
12 of which information would injure the affected entity in the marketplace.

13 (3) Records made before the date of the expiration of an exception
14 shall be subject to disclosure as otherwise provided by law. In deciding
15 whether the records shall be made public, the legislature shall consider
16 whether the damage or loss to persons or entities uniquely affected by
17 the exception of the type specified in paragraph (2)(B) or (2)(C) of this
18 subsection (h) would occur if the records were made public.

19 (i) Exceptions contained in the following statutes *as continued in ex-*
20 *istence in section 2 of chapter 126 of the 2005 Session Laws of Kansas*
21 *and exceptions contained in the following statutes* as certified by the re-
22 visor of statutes to the president of the senate and the speaker of the
23 house of representatives pursuant to subsection (e) of this section ~~on June~~
24 ~~1, 2004, during 2009~~ are hereby continued in existence until July 1, ~~2010~~
25 ~~2015~~, at which time such exceptions shall expire: 1-401, 2-1202, 5-512,
26 9-1137, 9-1712, 9-2217, 10-630, 11-306, 12-189, 12-1,108, 12-1694, 12-
27 1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-1312e, ~~17-2036~~, 17-2227,
28 17-5832, ~~17-7503~~, ~~17-7505~~, 17-7511, 17-7514, 17-76,139, 19-4321, 21-
29 2511, 22-3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-
30 4161, 25-4165, 31-405, 34-251, ~~38-1508~~, ~~38-1520~~, ~~38-1565~~, ~~38-1609~~, ~~38-~~
31 ~~1610~~, ~~38-1618~~, ~~38-1664~~, 38-2212, 39-709b, 39-719e, 39-934, 39-1434,
32 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409,
33 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-
34 3421, 40-3613, 40-3805, 40-4205, ~~40-5301~~, 44-510j, 44-550b, 44-594, 44-
35 635, 44-714, 44-817, 44-1005, 44-1019, subsections (a)(1) through (43),
36 ~~(a)(45) and (a)(46)~~ of 45-221, 46-256, 46-259, 46-2201, 47-839, 47-844,
37 47-849, 47-1709, 48-1614, 49-406, 49-427, 55-1,102, ~~56-1a606~~, ~~56-1a607~~,
38 ~~56a-1201~~, ~~56a-1202~~, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-
39 3333, 60-3336, ~~60-3351~~, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-
40 177, 65-1,106, 65-1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-
41 1,168, 65-1,169, 65-1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525,
42 65-531, 65-657, 65-1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438,
43 65-2836, 65-2839a, 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126,

1 65-4019, ~~65-4608~~, 65-4922, 65-4925, 65-5602, 65-5603, 65-6002, 65-
 2 6003, 65-6004, 65-6010, 65-67a05, 65-6803, 65-6804, 66-101c, 66-117,
 3 66-151, 66-1,190, 66-1,203, 66-1220a, 66-2010, *72-972a*, 72-996, 72-4311,
 4 72-4452, 72-5214, 72-53,106, 72-5427, 72-8903, 73-1228, 74-2424, 74-
 5 2433f, 74-4905, 74-4909, 74-50,131, 74-5515, 74-7308, 74-7338, ~~74-~~
 6 ~~7405a~~, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805, *74-99d05*, 75-104,
 7 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133, 75-5266,
 8 75-53,105, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11,
 9 76-3305, 79-1119, ~~79-1437f~~, ~~79-15,118~~, **79-1437f**, 79-3234, 79-3395, 79-
 10 3420, 79-3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

11 (j) Exceptions contained in the following statutes as certified by the
 12 revisor of statutes to the president of the senate and the speaker of the
 13 house of representatives pursuant to subsection (e) of this section on June
 14 1, 2005, are hereby continued in existence until July 1, 2011, at which
 15 time such exceptions shall expire: 1-501, 9-1303, 12-4516a, 38-1692, 39-
 16 970, 40-4913, 65-525, 65-5117, 65-6016, 65-6017 and 74-7508.

17 (k) Exceptions contained in the following statutes as certified by the
 18 revisor of statutes to the president of the senate and the speaker of the
 19 house of representatives pursuant to subsection (e) during 2006, 2007
 20 and 2008 are hereby continued in existence until July 1, 2014, at which
 21 time such exceptions shall expire: 8-240, 8-247, 8-255c, 8-1324, 8-1325,
 22 12-17,150, 12-2001, 12-5332, 17-12a607, 38-1008, 38-2209, 40-5006, 40-
 23 5108, 41-2905, 41-2906, 44-706, 44-1518, subsections (a)(44), (45), (46)
 24 and (47) of 45-221, 56-1a610, 56a-1204, 65-1,243, 65-3239, 66-1233, 74-
 25 50,184, 74-8134, 74-99b06 and 82a-2210.

26 ~~Sec. 2.—K.S.A. 2009 Supp. 38-1664 is hereby amended to read as~~
 27 ~~follows: 38-1664. (a) Prior to placing a juvenile offender in the custody~~
 28 ~~of the commissioner and recommending out-of-home placement, the~~
 29 ~~court shall consider and determine that, where consistent with the need~~
 30 ~~for protection of the community:~~

31 ~~—(1)—Reasonable efforts have been made to maintain the family unit~~
 32 ~~and prevent unnecessary removal of a juvenile offender from the juvenile~~
 33 ~~offender's home, as long as the juvenile offender's safety is assured, or~~
 34 ~~an emergency exists which threatens the safety of the juvenile offender.~~
 35 ~~If the juvenile offender is in the custody of the secretary of social and~~
 36 ~~rehabilitation services under the Kansas code for the care of children, the~~
 37 ~~secretary shall prepare a report for the court documenting such reason-~~
 38 ~~able efforts. If the juvenile offender is in the custody of the commissioner,~~
 39 ~~the commissioner shall prepare a report for the court documenting such~~
 40 ~~reasonable efforts. Otherwise, the predisposition investigation writer shall~~
 41 ~~prepare a report to the court documenting such reasonable efforts. Reason-~~
 42 ~~able efforts are not required prior to removal if the court finds:~~

43 ~~—(A)—A court of competent jurisdiction has determined that the parent~~

1 has subjected the juvenile offender to aggravated circumstances;
2 ~~—(B)— a court of competent jurisdiction has determined that the parent~~
3 ~~has been convicted of a murder of another child of the parent, voluntary~~
4 ~~manslaughter of another child of the parent, aiding or abetting, attempt-~~
5 ~~ing, conspiring or soliciting to commit such a murder of such a voluntary~~
6 ~~manslaughter, or a felony assault that results in serious bodily injury to~~
7 ~~the juvenile offender or another child of the parent, or~~
8 ~~—(C)— the parental rights of the parent with respect to a sibling have~~
9 ~~been terminated involuntarily.~~
10 ~~—Such findings must be included in the court's order.~~
11 ~~—(2)— The juvenile offender's removal from the home must be the result~~
12 ~~of a judicial determination to the effect that continuation of residence in~~
13 ~~the home would be contrary to the welfare, or that placement would be~~
14 ~~in the best interests, of the juvenile offender. The contrary to the welfare~~
15 ~~determination must be made in the first court ruling that sanctions the~~
16 ~~removal of a juvenile offender from the home.~~
17 ~~—(3)— A permanency plan must be presented at disposition or within 30~~
18 ~~days thereafter. If a permanency plan is in place under a child in need of~~
19 ~~care proceeding, the court may adopt the plan under the present pro-~~
20 ~~ceeding. If the juvenile offender is placed in the custody of the commis-~~
21 ~~sioner, the commissioner shall prepare the plan. The plan must comply~~
22 ~~with the requirements of K.S.A. 2000 Supp. 38-2263, and amendments~~
23 ~~thereto. The court shall have the authority to require any person or entity~~
24 ~~agreeing to participate in the plan to perform as set out in the plan.~~
25 ~~—(4)— The court must determine that reasonable efforts have been made~~
26 ~~and what progress has been made to finalize the permanency plan that is~~
27 ~~in effect within 12 months of the date the juvenile offender is considered~~
28 ~~to have entered foster care and at least once every 12 months thereafter~~
29 ~~while the juvenile offender is in foster care.~~
30 ~~—(5)— The court must reflect reasonable efforts and contrary to the wel-~~
31 ~~fare findings in orders awarding custody to the commissioner temporarily,~~
32 ~~at sentencing and at modification hearings. If the juvenile offender is~~
33 ~~placed in the custody of the commissioner, the court shall provide the~~
34 ~~commissioner with a written copy of any orders entered upon making the~~
35 ~~order for the purpose of documenting the orders.~~
36 ~~—(6)— If the juvenile offender is placed in the commissioner's custody,~~
37 ~~the commissioner shall document in writing the reasonable efforts that~~
38 ~~have been made and the progress made to finalize the permanency plan,~~
39 ~~before each hearing reviewing the plan.~~
40 ~~—(b)— When a juvenile offender has been placed in the custody of the~~
41 ~~commissioner, the commissioner shall notify the court in writing of the~~
42 ~~initial placement of the juvenile offender as soon as the placement has~~
43 ~~been accomplished. The court shall have no power to direct a specific~~

1 placement by the commissioner, but may make recommendations to the
2 commissioner. The commissioner may place the juvenile offender in an
3 institution operated by the commissioner, a youth residential facility or a
4 community mental health center. If the court has recommended an out-
5 of-home placement, the commissioner may not return the juvenile of-
6 fender to the home from which removed without first notifying the court
7 of the plan.

8 —(c)— During the time a juvenile offender remains in the custody of the
9 commissioner, the commissioner shall report to the court at least each six
10 months as to the current living arrangement and social and mental de-
11 velopment of the juvenile offender and document in writing the reason-
12 able efforts that have been made and the progress made to finalize the
13 permanency plan.

14 —(d)— If the juvenile offender is placed outside the juvenile offender's
15 home, a permanency hearing shall be held not more than 12 months after
16 the juvenile offender is placed outside the juvenile offender's home and,
17 if reintegration is a viable alternative, every 12 months thereafter. The
18 court may appoint a guardian ad litem to represent the juvenile offender
19 at the permanency hearing. Juvenile offenders who have been in extended
20 out of home placement shall be provided a permanency hearing within
21 30 days of a request from the commissioner. If reintegration is not a viable
22 alternative and either adoption or permanent guardianship might be in
23 the best interests of the juvenile offender the county or district attorney
24 shall file a petition alleging the juvenile is a child in need of care and
25 requesting termination of parental rights or the appointment of a per-
26 manent custodian pursuant to the revised Kansas code for care of chil-
27 dren. If the juvenile offender is placed in foster care, the foster parent
28 or parents shall submit to the court, at least every six months, a report in
29 regard to the juvenile offender's adjustment, progress and condition. The
30 juvenile justice authority shall notify the foster parent or parents of the
31 foster parents' or parent's duty to submit such report, on a form provided
32 by the juvenile justice authority, at least two weeks prior to the date when
33 the report is due, and the name of the judge and the address of the court
34 to which the report is to be submitted. Such report shall be confidential
35 and shall only be reviewed by the court, *the child's guardian ad litem* and
36 the child's attorney, *if any*.

37 —(e)— The report made by foster parents and provided by the commis-
38 sioner of juvenile justice, pursuant to this section, shall be in substantially
39 the following form:

40 REPORT FROM FOSTER PARENTS
41 CONFIDENTIAL

42 _____
43 _____ Child's Name _____ Current Address

1 _____

2 _____ Parent's Name _____ Foster Parents

3 _____

4 _____ Primary Social Worker

5 Please circle the word which best describes the child's progress

6 1. Child's adjustment in the home

7 _____ excellent _____ good _____ satisfactory _____ needs improvement

8 2. Child's interaction with foster parents and family members

9 _____ excellent _____ good _____ satisfactory _____ needs improvement

10 3. Child's interaction with others

11 _____ excellent _____ good _____ satisfactory _____ needs improvement

12 4. Child's respect for property

13 _____ excellent _____ good _____ satisfactory _____ needs improvement

14 5. Physical and emotional condition of the child

15 _____ excellent _____ good _____ satisfactory _____ needs improvement

16 6. Social worker's interaction with the child and foster family

17 _____ excellent _____ good _____ satisfactory _____ needs improvement

18 7. School status of child:

19 _____

20 _____ School _____ Grade

21 Grades _____ Good _____ Fair _____ Poor _____

22 Attendance _____ Good _____ Fair _____ Poor _____

23 Behavior _____ Good _____ Fair _____ Poor _____

24 8. If visitation with parents has occurred, describe the frequency of visits, with whom,

25 supervised or unsupervised, and any significant events which have occurred. _____

26 _____

27 9. Your opinion regarding the overall adjustment, progress and condition of the child:

28 _____

29 _____

30 10. Do you have any special concerns or comments with regard to the child not addressed

31 by this form? Please specify. _____

32 _____

33 **Sec. 2. K.S.A. 2009 Supp. 38-2309 is hereby amended to read**

34 **as follows: 38-2309. (a) *Official file.* The official file of proceedings**

35 **pursuant to this code shall consist of the complaint, process, serv-**

36 **ice of process, orders, writs and journal entries reflecting hearings**

37 **held, judgments and decrees entered by the court. The official file**

38 **shall be kept separate from other records of the court.**

39 **(b) The official file shall be open for public inspection, unless**

40 **the judge determines that opening the official file for public in-**

41 **spection is not in the best interests of a juvenile who is less than**

42 **14 years of age. Information identifying victims and alleged victims**

43 **of sex offenses, as defined in article 35 of chapter 21 of the Kansas**

1 Statutes Annotated, and amendments thereto, shall not be dis-
2 closed or open to public inspection under any circumstances.
3 Nothing in this section shall prohibit the victim or alleged victim
4 of any sex offense from voluntarily disclosing such victim's identity.
5 An official file closed pursuant to this section and information iden-
6 tifying the victim or alleged victim of any sex offense shall be dis-
7 closed only to the following:

- 8 (1) A judge of the district court and members of the staff of the
9 court designated by the judge;
- 10 (2) parties to the proceedings and their attorneys;
- 11 (3) any individual or any public or private agency or institution:
12 (A) Having custody of the juvenile under court order; or (B) pro-
13 viding educational, medical or mental health services to the juve-
14 nile;
- 15 (4) the juvenile's court appointed special advocate;
- 16 (5) any placement provider or potential placement provider as
17 determined by the commissioner or court services officer;
- 18 (6) law enforcement officers or county or district attorneys, or
19 their staff, when necessary for the discharge of their official duties;
- 20 (7) the Kansas racing commission, upon written request of the
21 commission chairperson, for the purpose provided by K.S.A. 74-
22 8804, and amendments thereto, except that information identify-
23 ing the victim or alleged victim of any sex offense shall not be
24 disclosed pursuant to this subsection;
- 25 (8) juvenile intake and assessment workers;
- 26 (9) the commissioner;
- 27 (10) any other person when authorized by a court order, sub-
28 ject to any conditions imposed by the order; and
- 29 (11) the commission on judicial performance in the discharge
30 of the commission's duties pursuant to article 32 of chapter 20 of
31 the Kansas Statutes Annotated, and amendments thereto.

32 (c) *Social file.* Reports and information received by the court,
33 other than the official file, shall be privileged and open to inspec-
34 tion only by attorneys for the parties, juvenile intake and assess-
35 ment workers, court appointed special advocates ~~and~~, juvenile
36 community corrections officers, *the juvenile's guardian ad litem*, if
37 any, or upon order of a judge of the district court or appellate
38 court. The reports shall not be further disclosed without approval
39 of the court or by being presented as admissible evidence.

40 (d) *Preservation of records.* The Kansas state historical society
41 shall be allowed to take possession for preservation in the state
42 archives of any court records related to proceedings under the
43 Kansas juvenile justice code or the revised Kansas juvenile justice

1 **code whenever such records otherwise would be destroyed. The**
2 **Kansas state historical society shall make available for public in-**
3 **spection any unexpunged docket entry or official file in its custody**
4 **concerning any juvenile 14 or more years of age at the time an**
5 **offense is alleged to have been committed by the juvenile. No**
6 **other such records in the custody of the Kansas state historical**
7 **society shall be disclosed directly or indirectly to anyone for 70**
8 **years after creation of the records, except as provided in subsec-**
9 **tions (b) and (c). A judge of the district court may allow inspection**
10 **for research purposes of any court records in the custody of the**
11 **Kansas state historical society related to proceedings under the**
12 **Kansas juvenile justice code or the revised Kansas juvenile justice**
13 **code.**

14 **(e) Relevant information, reports and records, shall be made**
15 **available to the department of corrections upon request, and a**
16 **showing that the former juvenile has been convicted of a crime**
17 **and placed in the custody of the secretary of corrections.**

18 Sec. 3. K.S.A. 60-3351 is hereby amended to read as follows: 60-
19 3351. (a) Except as provided in K.S.A. 60-3352 and 60-3353, and amend-
20 ments thereto, an insurance compliance self-evaluative audit document
21 is privileged information and is not discoverable, or admissible as evi-
22 dence in any legal action in any civil, criminal or administrative proceed-
23 ing. The privilege created herein is a matter of substantive law of this
24 state and is not merely a procedural matter governing civil or criminal
25 procedures in the courts of this state.

26 (b) If any insurance company, person, or entity performs or directs
27 the performance of an insurance compliance audit, an officer, employee
28 or agent involved with the insurance compliance audit, or any consultant
29 who is hired for the purpose of performing the insurance compliance
30 audit, may not be examined in any civil, criminal or administrative pro-
31 ceeding as to the insurance compliance audit or any insurance compliance
32 self-evaluative audit document, as defined in this section. This subsection
33 (b) shall not apply if the privilege set forth in subsection (a) of this section
34 is determined under K.S.A. 60-3352 and 60-3353, and amendments
35 thereto, not to apply.

36 (c) Any insurance company may voluntarily submit, in connection
37 with any examination conducted under chapter 40 of the Kansas Statutes
38 Annotated, and amendments thereto, an insurance compliance self-ev-
39 aluative audit document to the commissioner as a confidential document
40 in the same manner as provided in chapter 40 of the Kansas Statutes
41 Annotated, and amendments thereto, for documents required to be pro-
42 vided to the commissioner in the course of an examination by the com-
43 missioner without waiving the privilege set forth in this section to which

1 the insurance company would otherwise be entitled. Any provision in
2 chapter 40 of the Kansas Statutes Annotated, and amendments thereto,
3 permitting the commissioner to make confidential documents public or
4 to grant the national association of insurance commissioners access to
5 confidential documents shall not apply to the insurance compliance self-
6 evaluative audit document voluntarily submitted by an insurance com-
7 pany. To the extent that the commissioner has the authority to compel
8 the disclosure of an insurance compliance self-evaluative audit document
9 under other provisions of applicable law, any such report furnished to the
10 commissioner shall not be provided to any other persons or entities and
11 shall be accorded the same confidentiality and other protections as pro-
12 vided above for voluntarily submitted documents. Any use of an insurance
13 compliance self-evaluative audit document furnished as a result of a re-
14 quest of the commissioner under a claim of authority to compel disclosure
15 shall be limited to determining whether or not any disclosed defects in
16 an insurers' policies and procedures or inappropriate treatment of cus-
17 tomers has been remedied or that an appropriate plan for their remedy
18 is in place.

19 (1) Any insurance company's insurance compliance self-evaluative
20 audit document submitted to the commissioner shall remain subject to
21 all applicable statutory or common law privileges including, but not lim-
22 ited to, the work product doctrine, attorney-client privilege, or the sub-
23 sequent remedial measures exclusion.

24 (2) Any compliance self-evaluative audit document so submitted and
25 in the possession of the commissioner shall remain the property of the
26 insurance company and shall not be subject to any disclosure or produc-
27 tion under the Kansas open records act. The provision of this paragraph
28 shall expire on July 1, ~~2010~~ 2015, unless the legislature reenacts such
29 provision. The provision of this paragraph shall be reviewed by the leg-
30 islatre prior to July 1, ~~2010~~ 2015.

31 (d) Disclosure of an insurance compliance self-evaluative audit doc-
32 ument to a governmental agency, whether voluntary or pursuant to com-
33 pulsion of law, shall not constitute a waiver of the privilege set forth in
34 subsection (a) with respect to any other persons or any other govern-
35 mental agencies. Nothing in this act shall prohibit the division of post
36 audit from having access to all insurance compliance self-evaluative audit
37 documents in the custody of the commissioner.

38 Sec. 4. K.S.A. 60-3351 and 74-7405a and K.S.A. 2009 Supp. ~~38-1664,~~
39 **38-2309 and 45-229 and 79-1437f** are hereby repealed.

40 Sec. 5. This act shall take effect and be in force from and after its
41 publication in the statute book.