

{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2025

HOUSE BILL No. 2131

By Committee on Corrections and Juvenile Justice

Requested by Representative Lewis

1-28

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to jailhouse witness testimony; requiring prosecutors to disclose their
3 intent to introduce testimony from a jailhouse witness and to forward
4 related information to the Kansas bureau of investigation; **providing**
5 **for confidentiality of such information; amending K.S.A. 2024**
6 **Supp. 45-229 and repealing the existing section}.**
7

8 WHEREAS, The provisions **{of section }1** of this act shall be known as
9 the Pete Coones memorial act.

10 Now, therefore:

11 *Be it enacted by the Legislature of the State of Kansas:*

12 **{New }**Section 1. (a) (1) In any criminal prosecution, the prosecuting
13 attorney shall disclose its intent to introduce testimony of a jailhouse
14 witness regarding statements made by a suspect or defendant while such
15 witness and suspect or defendant were both incarcerated within the time
16 provided by K.S.A. 22-3212, and amendments thereto. The prosecuting
17 attorney shall provide to the defense:

18 (A) The criminal history of the jailhouse witness, including any
19 pending or dismissed criminal charges;

20 (B) the jailhouse witness's cooperation agreement and any benefit that
21 has been requested by, provided to or will be provided in the future to the
22 jailhouse witness;

23 (C) the contents of any statement allegedly given by the suspect or
24 defendant to the jailhouse witness and the contents of any statement given
25 by the jailhouse witness to law enforcement regarding the statements
26 allegedly made by the suspect or defendant, including the time and place
27 such statements were given;

28 (D) any information regarding the jailhouse witness recanting
29 testimony or statements, including the time and place of the recantation,
30 the nature of the recantation and the names of the people present at the
31 recantation; and

32 (E) any information concerning other criminal cases in which the
33 testimony of the jailhouse witness was introduced or was intended to be

1 introduced by a prosecuting attorney regarding statements made by a
2 suspect or defendant, including any cooperation agreement and any benefit
3 that the jailhouse witness received in such case.

4 (2) The court may permit the prosecuting attorney to comply with the
5 provisions of this section after the time period provided in paragraph (1) if
6 the court finds that the jailhouse witness was not known or the information
7 described in paragraph (1) could not be discovered or obtained by the
8 prosecuting attorney exercising due diligence within such time period.

9 (3) If the court finds that disclosing the information described in
10 paragraph (1) is likely to cause bodily harm to the jailhouse witness, the
11 court may:

12 (A) Order that such evidence be viewed only by the defense counsel
13 and not by the defendant or others; and

14 (B) issue a protective order.

15 (b) (1) Each prosecuting attorney's office shall maintain a central
16 record containing information regarding:

17 (A) Any case in which testimony by a jailhouse witness is introduced
18 or is intended to be introduced by a prosecuting attorney regarding
19 statements made by a suspect or defendant and the substance of such
20 testimony; and

21 (B) any benefit that has been requested by, provided to or will be
22 provided in the future to a jailhouse witness in connection with testimony
23 provided by such witness.

24 (2) Each prosecuting attorney's office shall forward the information
25 described in paragraph (1) to the Kansas bureau of investigation. The
26 bureau shall maintain a statewide database containing the information
27 forwarded pursuant to this section. Such database shall be accessible only
28 to prosecuting attorneys and shall otherwise remain confidential and not
29 subject to the open records act, K.S.A. 45-215 et seq., and amendments
30 thereto. The provision regarding confidentiality shall ~~expire on July 1,~~
31 ~~2029, unless the legislature reviews and acts to continue such provision~~
32 **{not be subject to expiration or review}** pursuant to K.S.A. 45-229, and
33 amendments thereto, ~~prior to July 1, 2029.~~

34 (c) If a jailhouse witness receives any benefit in connection with
35 offering or providing testimony against a defendant, the prosecuting
36 attorney shall notify any victim connected to the criminal prosecution.

37 (d) As used in this section:

38 (1) "Benefit" means any plea bargain, bail consideration, reduction or
39 modification of sentence, or any other leniency, immunity, financial
40 payment, reward or amelioration of current or future conditions of
41 sentence that is requested, provided or will be provided in the future in
42 connection with, or in exchange for, testimony of a jailhouse witness.

43 (2) "Jailhouse witness" means a person who provides testimony, ~~or is~~

1 ~~intended to provide testimony or {with} whom the prosecuting attorney~~
2 ~~at some point intended to call as a witness {has entered into an~~
3 ~~agreement providing for such person's possible testimony}~~ during a
4 criminal prosecution regarding statements made by a suspect or defendant
5 while both the witness and the suspect or defendant were incarcerated; and
6 who has requested, ~~has or~~ been offered ~~or may in the future receive~~ a
7 benefit **or possible benefit** in connection with such testimony. "Jailhouse
8 witness" does not mean a person who is a confidential informant, an
9 accomplice or a co-defendant.

10 (e) This section shall be a part of and supplemental to the Kansas
11 code of criminal procedure.

12 {Sec. 2. K.S.A. 2024 Supp. 45-229 is hereby amended to read as
13 follows: 45-229. (a) It is the intent of the legislature that exceptions to
14 disclosure under the open records act shall be created or maintained
15 only if:

16 (1) The public record is of a sensitive or personal nature
17 concerning individuals;

18 (2) the public record is necessary for the effective and efficient
19 administration of a governmental program; or

20 (3) the public record affects confidential information.

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

31 (b) Subject to the provisions of subsections (g) and (h), any new
32 exception to disclosure or substantial amendment of an existing
33 exception shall expire on July 1 of the fifth year after enactment of the
34 new exception or substantial amendment, unless the legislature acts to
35 continue the exception. A law that enacts a new exception or
36 substantially amends an existing exception shall state that the
37 exception expires at the end of five years and that the exception shall
38 be reviewed by the legislature before the scheduled date.

39 (c) For purposes of this section, an exception is substantially
40 amended if the amendment expands the scope of the exception to
41 include more records or information. An exception is not substantially
42 amended if the amendment narrows the scope of the exception.

43 (d) This section is not intended to repeal an exception that has

1 been amended following legislative review before the scheduled repeal
2 of the exception if the exception is not substantially amended as a
3 result of the review.

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

15 (f) "Exception" means any provision of law that creates an
16 exception to disclosure or limits disclosure under the open records act
17 pursuant to K.S.A. 45-221, and amendments thereto, or pursuant to
18 any other provision of law.

19 (g) A provision of law that creates or amends an exception to
20 disclosure under the open records law shall not be subject to review
21 and expiration under this act if such provision:

22 (1) Is required by federal law;

23 (2) applies solely to the legislature or to the state court system;

24 (3) has been reviewed and continued in existence twice by the
25 legislature;

26 (4) has been reviewed and continued in existence by the
27 legislature during the 2013 legislative session and thereafter; ~~or~~

28 (5) is a report of the results of an audit conducted by the United
29 States cybersecurity and infrastructure security agency; *or*

30 (6) *is contained in the following statute: section 1(b).*

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

34 (A) What specific records are affected by the exception;

35 (B) whom does the exception uniquely affect, as opposed to the
36 general public;

37 (C) what is the identifiable public purpose or goal of the
38 exception;

39 (D) whether the information contained in the records may be
40 obtained readily by alternative means and how it may be obtained;

41 (2) an exception may be created or maintained only if it serves an
42 identifiable public purpose and may be no broader than is necessary
43 to meet the public purpose it serves. An identifiable public purpose is

1 served if the legislature finds that the purpose is sufficiently
2 compelling to override the strong public policy of open government
3 and cannot be accomplished without the exception and if the
4 exception:

5 (A) Allows the effective and efficient administration of a
6 governmental program that would be significantly impaired without
7 the exception;

8 (B) protects information of a sensitive personal nature concerning
9 individuals, the release of such information would be defamatory to
10 such individuals or cause unwarranted damage to the good name or
11 reputation of such individuals or would jeopardize the safety of such
12 individuals. Only information that would identify the individuals may
13 be excepted under this paragraph; or

14 (C) protects information of a confidential nature concerning
15 entities, including, but not limited to, a formula, pattern, device,
16 combination of devices, or compilation of information that is used to
17 protect or further a business advantage over those who do not know or
18 use it, if the disclosure of such information would injure the affected
19 entity in the marketplace.

20 (3) Records made before the date of the expiration of an
21 exception shall be subject to disclosure as otherwise provided by law.
22 In deciding whether the records shall be made public, the legislature
23 shall consider whether the damage or loss to persons or entities
24 uniquely affected by the exception of the type specified in paragraph
25 (2)(B) or (2)(C) would occur if the records were made public.

26 (i) (1) Exceptions contained in the following statutes as continued
27 in existence in section 2 of chapter 126 of the 2005 Session Laws of
28 Kansas and that have been reviewed and continued in existence twice
29 by the legislature as provided in subsection (g) are hereby continued in
30 existence: 1-401, 2-1202, 5-512, 9-1137, 9-1712, 9-2217, 10-630, 12-189,
31 12-1,108, 12-1694, 12-1698, 12-2819, 12-4516, 16-715, 16a-2-304, 17-
32 1312e, 17-2227, 17-5832, 17-7511, 17-76,139, 19-4321, 21-2511, 22-
33 3711, 22-4707, 22-4909, 22a-243, 22a-244, 23-605, 23-9,312, 25-4161,
34 25-4165, 31-405, 34-251, 38-2212, 39-709b, 39-719e, 39-934, 39-1434,
35 39-1704, 40-222, 40-2,156, 40-2c20, 40-2c21, 40-2d20, 40-2d21, 40-409,
36 40-956, 40-1128, 40-2807, 40-3012, 40-3304, 40-3308, 40-3403b, 40-
37 3421, 40-3613, 40-3805, 40-4205, 44-510j, 44-550b, 44-594, 44-635, 44-
38 714, 44-817, 44-1005, 44-1019, 45-221(a)(1) through (43), 46-256, 46-
39 259, 46-2201, 47-839, 47-844, 47-849, 47-1709, 48-1614, 49-406, 49-427,
40 55-1,102, 58-4114, 59-2135, 59-2802, 59-2979, 59-29b79, 60-3333, 60-
41 3336, 65-102b, 65-118, 65-119, 65-153f, 65-170g, 65-177, 65-1,106, 65-
42 1,113, 65-1,116, 65-1,157a, 65-1,163, 65-1,165, 65-1,168, 65-1,169, 65-
43 1,171, 65-1,172, 65-436, 65-445, 65-507, 65-525, 65-531, 65-657, 65-

1 1135, 65-1467, 65-1627, 65-1831, 65-2422d, 65-2438, 65-2836, 65-2839a,
2 65-2898a, 65-3015, 65-3447, 65-34,108, 65-34,126, 65-4019, 65-4922,
3 65-4925, 65-5602, 65-5603, 65-6002, 65-6003, 65-6004, 65-6010, 65-
4 67a05, 65-6803, 65-6804, 66-101c, 66-117, 66-151, 66-1,190, 66-1,203,
5 66-1220a, 66-2010, 72-2232, 72-3438, 72-6116, 72-6267, 72-9934, 73-
6 1228, 74-2424, 74-2433f, 74-32,419, 74-4905, 74-4909, 74-50,131, 74-
7 5515, 74-7308, 74-7338, 74-8104, 74-8307, 74-8705, 74-8804, 74-9805,
8 75-104, 75-712, 75-7b15, 75-1267, 75-2943, 75-4332, 75-4362, 75-5133,
9 75-5266, 75-5665, 75-5666, 75-7310, 76-355, 76-359, 76-493, 76-12b11,
10 76-12c03, 76-3305, 79-1119, 79-1437f, 79-3234, 79-3395, 79-3420, 79-
11 3499, 79-34,113, 79-3614, 79-3657, 79-4301 and 79-5206.

12 (2) Exceptions contained in the following statutes as certified by
13 the revisor of statutes to the president of the senate and the speaker of
14 the house of representatives pursuant to subsection (e) and that have
15 been reviewed during the 2015 legislative session and continued in
16 existence by the legislature as provided in subsection (g) are hereby
17 continued in existence: 17-2036, 40-5301, 45-221(a)(45), (46) and (49),
18 48-16a10, 58-4616, 60-3351, 72-3415, 74-50,217 and 75-53,105.

19 (j) (1) Exceptions contained in the following statutes as continued
20 in existence in section 1 of chapter 87 of the 2006 Session Laws of
21 Kansas and that have been reviewed and continued in existence twice
22 by the legislature as provided in subsection (g) are hereby continued in
23 existence: 1-501, 9-1303, 12-4516a, 39-970, 65-525, 65-5117, 65-6016,
24 65-6017 and 74-7508.

25 (2) Exceptions contained in the following statutes as certified by
26 the revisor of statutes to the president of the senate and the speaker of
27 the house of representatives pursuant to subsection (e) during 2015
28 and that have been reviewed during the 2016 legislative session are
29 hereby continued in existence: 12-5611, 22-4906, 22-4909, 38-2310, 38-
30 2311, 38-2326, 40-955, 44-1132, 45-221(a)(10)(F) and (a)(50), 60-3333,
31 65-4a05, 65-445(g), 65-6154, 71-218, 75-457, 75-712c, 75-723 and 75-
32 7c06.

33 (k) Exceptions contained in the following statutes as certified by
34 the revisor of statutes to the president of the senate and the speaker of
35 the house of representatives pursuant to subsection (e) and that have
36 been reviewed during the 2014 legislative session and continued in
37 existence by the legislature as provided in subsection (g) are hereby
38 continued in existence: 1-205, 2-2204, 8-240, 8-247, 8-255c, 8-1324, 8-
39 1325, 12-17,150, 12-2001, 17-12a607, 38-1008, 38-2209, 40-5006, 40-
40 5108, 41-2905, 41-2906, 44-706, 44-1518, 45-221(a)(44), (45), (46), (47)
41 and (48), 50-6a11, 65-1,243, 65-16,104, 65-3239, 74-50,184, 74-8134, 74-
42 99b06, 77-503a and 82a-2210.

43 (l) Exceptions contained in the following statutes as certified by

1 the revisor of statutes to the president of the senate and the speaker of
2 the house of representatives pursuant to subsection (e) during 2016
3 and that have been reviewed during the 2017 legislative session are
4 hereby continued in existence: 12-5711, 21-2511, 22-4909, 38-2313, 45-
5 221(a)(51) and (52), 65-516, 65-1505, 74-2012, 74-5607, 74-8745, 74-
6 8752, 74-8772, 75-7d01, 75-7d05, 75-5133, 75-7427 and 79-3234.

7 (m) Exceptions contained in the following statutes as certified by
8 the revisor of statutes to the president of the senate and the speaker of
9 the house of representatives pursuant to subsection (e) during 2012
10 and that have been reviewed during the 2013 legislative session and
11 continued in existence by the legislature as provided in subsection (g)
12 are hereby continued in existence: 12-5811, 40-222, 40-223j, 40-5007a,
13 40-5009a, 40-5012a, 65-1685, 65-1695, 65-2838a, 66-1251, 66-1805, 72-
14 8268, 75-712 and 75-5366.

15 (n) Exceptions contained in the following statutes as certified by
16 the revisor of statutes to the president of the senate and the speaker of
17 the house of representatives pursuant to subsection (e) and that have
18 been reviewed during the 2018 legislative session are hereby continued
19 in existence: 9-513c(c)(2), 39-709, 45-221(a)(26), (53) and (54), 65-6832,
20 65-6834, 75-7c06 and 75-7c20.

21 (o) Exceptions contained in the following statutes as certified by
22 the revisor of statutes to the president of the senate and the speaker of
23 the house of representatives pursuant to subsection (e) that have been
24 reviewed during the 2019 legislative session are hereby continued in
25 existence: 21-2511(h)(2), 21-5905(a)(7), 22-2302(b) and (c), 22-2502(d)
26 and (e), 40-222(k)(7), 44-714(e), 45-221(a)(55), 46-1106(g) regarding
27 46-1106(i), 65-2836(i), 65-2839a(c), 65-2842(d), 65-28a05(n), article
28 6(d) of 65-6230, 72-6314(a) and 74-7047(b).

29 (p) Exceptions contained in the following statutes as certified by
30 the revisor of statutes to the president of the senate and the speaker of
31 the house of representatives pursuant to subsection (e) that have been
32 reviewed during the 2020 legislative session are hereby continued in
33 existence: 38-2310(c), 40-409(j)(2), 40-6007(a), 45-221(a)(52), 46-1129,
34 59-29a22(b)(10) and 65-6747.

35 (q) Exceptions contained in the following statutes as certified by
36 the revisor of statutes to the president of the senate and the speaker of
37 the house of representatives pursuant to subsection (e) that have been
38 reviewed during the 2021 legislative session are hereby continued in
39 existence: 22-2302(c)(4)(J) and (c)(6)(B), 22-2502(e)(4)(J) and (e)(6)(B)
40 and 65-6111(d)(4).

41 (r) Exceptions contained in the following statutes as certified by
42 the revisor of statutes to the president of the senate and the speaker of
43 the house of representatives pursuant to subsection (e) that have been

1 reviewed during the 2023 legislative session are hereby continued in
2 existence: 2-3902 and 66-2020.}

3 {Sec. 3. K.S.A. 2024 Supp. 45-229 is hereby repealed.}

4 Sec.~~2~~. {4.} This act shall take effect and be in force from and after its
5 publication in the statute book.