

**61.661 Member's account confidential -- Release of certain information from accounts of current or former legislators -- Response to subpoenas.**

- (1) (a) Each current, former, or retired member's account shall be administered in a confidential manner, and specific data regarding a current, former, or retired member shall not be released for publication, except that:
  1. The member or recipient may authorize the release of his or her account information;
  2. Kentucky Retirement Systems may release account information to the employer or to other state and federal agencies as it deems necessary or in response to a lawful subpoena or order issued by a court of law; or
  3. a. Upon request by any person, the systems shall release the following information from the accounts of any member or retired member of the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, if the member or retired member is a current or former officeholder in the Kentucky General Assembly:
    - i. The first and last name of the member or retired member;
    - ii. The system or systems in which the member has an account or from which the retired member is receiving a monthly retirement allowance;
    - iii. The status of the member or retired member, including but not limited to whether he or she is a contributing member, a member who is not currently contributing to the systems but has not retired, a retired member, or a retired member who has returned to work following retirement with an agency participating in the systems;
    - iv. If the individual is a retired member, the monthly retirement allowance that he or she was receiving at the end of the most recently completed fiscal year;
    - v. If the individual is a member who has not yet retired, the estimated monthly retirement allowance that he or she is eligible to receive at his or her normal retirement date based upon his or her service credit, final compensation, and accumulated account balance at the end of the most recently completed fiscal year; and
    - vi. The current employer or last participating employer of the member or retired member, if applicable.
  - b. No information shall be disclosed under this subparagraph from an account that is paying benefits to a beneficiary due to the death of a member or retired member.
- (b) A current, former, or retired member's account shall be exempt from the provisions of KRS 171.410 to 171.990.
- (c) The release of information under paragraph (a)3. of this subsection shall

not constitute a violation of the Open Records Act, KRS 61.870 to 61.884.

- (2) (a) When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a current, former, or retired member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena. The production of documents or an affidavit shall be in lieu of any personal testimony of any employee of the Kentucky Retirement Systems unless, after the production of documents or affidavit, a separate subpoena is served upon the systems specifically directing the testimony of an employee of the systems. When a subpoena is served on any employee of the systems requiring the employee to give deposition for any purpose, in the absence of a court order requiring the deposition of a specific employee, the systems may designate an employee to be deposed upon the matter referred to in the subpoena.
- (b) The certification required by this subsection shall be signed before a notary public by the employee and shall include the full name of the member or recipient, the member's or recipient's Social Security number, and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."
- (c) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.
- (d) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending. It shall be the responsibility of the party or attorney to transmit the receipt obtained to the employee of the Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.
- (e) Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this subsection.

**Effective:** January 9, 2017

**History:** Amended 2017 Ky. Acts ch. 4, sec. 1, effective January 9, 2017. -- Amended 1996 Ky. Acts ch. 167, sec. 18, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 22, effective July 15, 1994. Amended 1992 Ky. Acts ch. 240, sec. 42, effective July 14, 1992. -- Amended 1990 Ky. Acts ch. 346, sec. 9, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 349, sec. 44, effective July 15, 1988. -- Created 1972 Ky. Acts ch. 116, sec. 52.