

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 186**

As Agreed to March 26, 2025

**Brief\***

SB 186 would amend criminal procedure laws related to the availability of probable cause information, issuance of search warrants, setting bond for persons charged with certain sex offenses, forfeiture of appearance bonds, and the regulation of compensated sureties. The bill also would revise the Kansas Criminal Code definition of certain sex crimes to include conduct related to artificially generated visual depictions and define related terms.

***Probable Cause Information—Warrant or Summons***

The bill would require affidavits or sworn testimony supporting probable cause in the issuance of a warrant or summons to be made available to law enforcement agencies prior to the execution of such warrant or summons.

***Issuance of Search Warrants***

The bill would specify only law enforcement officers may provide sworn statements supporting a finding of probable cause to issue a search warrant. Under current law, any person may provide such statements.

***Bond Setting—Sex Crimes***

The bill would make changes to criminal bond laws to require a magistrate determine prior convictions of the underlying offense or comparable out-of-state convictions upon available evidence when setting bond if the defendant has been charged with:

- Rape;
- Criminal sodomy or aggravated criminal sodomy;
- Aggravated sexual battery; or
- Indecent liberties with a child or aggravated indecent liberties with a child.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <https://klrd.gov/>

If the magistrate determines that such defendant has a prior conviction of a sexually violent crime, as defined in continuing law, the bill would require a minimum bond amount of \$750,000. Additionally, the bill would require minimum conditions for the bond include: no contact with any victims or witnesses, and require the magistrate to place the defendant under a house arrest program.

The bill would further specify that bond could not be reduced or modified downward unless the magistrate determines by a preponderance of the evidence at an evidentiary hearing and makes a written finding on the record that the defendant is not a public safety risk or a flight risk. At the evidentiary hearing, there would be a presumption that the defendant is both a public safety risk and a flight risk.

### ***Forfeiture of Appearance Bonds***

The bill would require warrants issued for failure to appear to be provided to a compensated surety, change the criteria for setting aside bond forfeitures, and require the return of a percentage of an appearance bond in certain circumstances.

#### *Warrants Provided to Surety Upon Forfeiture*

Under continuing law, whenever a defendant is charged with a felony offense and fails to appear as directed by the court, the sheriff must enter the warrant into the National Crime Information Center index within 14 days of issuance of the warrant. The bill would require, upon request, the court to make a copy of the warrant available to the compensated surety who deposited the bond on behalf of the defendant.

#### *When Bond Forfeiture May Be Set Aside*

The bill would require a court to set aside (not enforce) a forfeiture in certain circumstances, in addition to other ways the court may or must direct forfeitures to be set aside in continuing law.

The bill would require the court to set aside a bond forfeiture when the warrant has not been provided to the compensated surety as directed by the bill unless there is good cause shown.

The bill would also require the court to set aside a bond forfeiture when the defendant was not held subject to an immigration detainer when the bond was posted and the surety can prove that the defendant has been deported from the United States prior to judgment of default. The bill would require the surety provide to the court a written statement, signed by the surety under penalty of perjury, setting forth facts substantiating the deportation.

### ***Remission of Appearance Bond***

The bill would require, when a forfeiture has not been set aside and a judgment of default has been issued, the court to remit (return) a portion of the amount of the appearance bond to the obligor if the defendant is returned to custody within a certain number of days after judgment is entered, as follows:

- 90 percent if returned within 90 days;
- 75 percent if returned within 91 to 180 days; or
- 50 percent if returned within 181 to 270 days.

### ***Regulation of Compensated Sureties***

The bill would prohibit a compensated surety from making loans for the purpose of financing the minimum appearance bond premium required to be paid before posting a bond.

Under continuing law, a compensated surety must charge a minimum appearance bond premium of 10 percent of the face amount of the bond, and post a bond only after the compensated surety has received at least 5 percent of such premium. The bill would specify that a compensated surety could not provide a loan, nor be affiliated with any financial institution providing such loan, for this 5 percent minimum.

[*Note:* The Kansas Code of Criminal Procedure defines “compensated surety” as any person or entity that issues appearance bonds for compensation, posts bail for four or more persons in a calendar year, is responsible for any forfeiture, and is liable for appearance bonds written by such person’s or entity’s authorized agents. A compensated surety is an insurance agent surety, a property surety, or a bail agent.]

### ***Sexual Exploitation of a Child***

The bill would expand the conduct that constitutes the crime of sexual exploitation of a child to include possessing any artificially generated visual depiction with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender or any other person.

The bill would define “artificially generated visual depiction” as an obscene visual depiction produced through the use of computer software, digital manipulation, or other means that creates an image or video depicting a child under 18 years of age shown or heard engaging in sexually explicit conduct.

The definition would include depictions that are obscene and indistinguishable from a real child, morphed from a real child’s image, or generated without any actual child involvement.

The bill would define “obscene” as a visual depiction or artificially generated visual depiction that, taken as a whole, appeals to the prurient interest of an average person, applying contemporary community standards, that is patently offensive, and that, taken as a whole, lacks literary, artistic, political, or scientific value.

### ***Unlawful Transmission of a Visual Depiction of a Child***

The bill would also expand the definition of “visual depiction” as used in the crime of unlawful transmission of a visual depiction of an identifiable child. Visual depictions under this crime would include, but would not be limited to, such items created, in whole or in part, altered, or modified by artificial intelligence or any digital means to appear to depict or purport to depict an identifiable child, regardless of whether such identifiable child was involved in the creation of the original image.

### ***Breach of Privacy***

The bill would also expand the crime of breach of privacy to include disseminating any videotape, photograph, film, or image that was created, altered, or modified by artificial intelligence to appear to depict or purport to depict an identifiable person regardless of whether such person was involved in the creation of the original image.

The bill would specify that the crime of breach of privacy would not apply to a cable service, a provider of direct-to-home satellite services, or a multi-channel video programming distributor or affiliate as defined by federal law.

### **Conference Committee Action**

The Conference Committee agreed to the contents of SB 186, as amended by the House Committee on Judiciary, concerning probable cause information and bond setting for sex crimes, but excluding the provisions of HB 2401 regarding criminal history scoring for an unconstitutional crime, and to add the contents of:

- SB 157, as amended by the House Committee on Judiciary, regarding the issuance of search warrants, forfeiture of appearance bonds, and regulation of compensated sureties; and
- HB 2183, as amended by the Senate Committee on Judiciary, regarding artificially generated visual depictions of a child.

### **Background**

The Conference Committee added the provisions of SB 157, as amended by the House Committee on Judiciary, and HB 2183, as amended by the Senate Committee on Judiciary, to the contents of SB 186, as amended by the House Committee on Judiciary, while making a further amendment to SB 186 to remove provisions related to criminal history scoring. The background for each bill is provided below.

### ***SB 186 (Probable Cause Information and Setting Bond for Sex Crimes)***

The House Committee on Judiciary amended SB 186 to insert the provisions of HB 2389, as amended by the House Committee on Judiciary, and HB 2401, as introduced, while retaining the contents of SB 186.

*SB 186 (Probable Cause Information)*

SB 186 was introduced by the Senate Committee on Judiciary at the request of a representative of the Kansas Sheriffs Association, Kansas Association of Chiefs of Police, and Kansas Peace Officers Association.

**Senate Committee on Judiciary.** In the Senate Committee hearing, a representative of the Kansas Sheriffs Association and Kansas Association of Chiefs of Police provided **proponent** testimony. The proponent stated the proposed language of SB 186 is needed for law enforcement to receive warrant information in the State's court records management system.

Written-only neutral testimony was provided by a representative of the Board of Indigents' Defense Services (BIDS).

No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

**House Committee on Judiciary.** In the House Committee hearing, **proponent** testimony was provided by a representative of the Kansas Sheriffs Association, Kansas Association of Chiefs of Police, and Kansas Peace Officers Association that was substantially similar to testimony provided in the Senate Committee.

Written-only neutral testimony was provided by a representative of BIDS.

No other testimony was provided.

*HB 2389 (Bond Setting—Sex Crimes)*

HB 2389 was introduced by the House Committee on Federal and State Affairs at the request of Representative Essex on behalf of Representative L. Williams.

**House Committee on Judiciary.** In the House Committee hearing, **proponent** testimony was provided by Representative L. Williams and the Johnson County District Attorney. The conferees stated the bill would provide additional safety for victims of sex crimes and could result in additional safety to the community due to additional bond considerations.

Written-only proponent testimony was provided by Senator Pettey; a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association; a representatives of the City of Overland Park; a representative of the Samuel Rodgers Health Center; three former state legislators; and 44 private citizens.

No other testimony was provided.

The House Committee amended the bill to:

- Remove the crime of sexual battery from the list of prior convictions to be determined;
- Require a court to determine, rather than consider, prior convictions upon available evidence; and

- Add language to specify a minimum bond amount of \$750,000, set minimum conditions, and establish findings required for a reduced or modified bond for sexually violent crimes.

[*Note:* The Conference Committee retained these amendments.]

*HB 2401 (Criminal History Scoring—Unconstitutional Crimes)*

HB 2401 was introduced by the House Committee on Federal and State Affairs at the request of Representative Humphries.

**House Committee on Judiciary.** In the House Committee hearing, **proponent** testimony was provided by the Sedgwick County District Attorney on behalf of the Kansas County and District Attorneys Association (KCDAA). The conferee stated the bill would address case law that interpreted current law to require convictions to be counted toward criminal history, even if the crime was later found to be unconstitutional. The conferee stated his belief that this decision was contrary to the legislative intent behind the statute.

**Opponent** testimony was provided by a representative of BIDS. The conferee stated the bill would seek to undo a court decision and would result in further uncertainty in sentencing and result in unnecessary appeals.

No other testimony was provided.

[*Note:* The Conference Committee did not retain these amendments.]

***SB 157 (Warrants, Bond, and Sureties)***

The House Committee on Judiciary inserted the contents of SB 138 and SB 244 into SB 157 while retaining the contents of SB 157.

*SB 157 (Forfeiture of Appearance Bonds)*

The bill was introduced by the Senate Committee on Judiciary at the request of Senator Owens.

**Senate Committee on Judiciary.** In the Senate Committee hearing, Senator Owens and a representative of the Kansas Bail Agents Association (KBAA) provided **proponent** testimony. The proponents generally agreed that the bill would ensure consistency in the enforcement of bond forfeitures.

**Opponent** testimony was provided by a representative of the Kansas Sheriffs Association, who expressed concerns regarding a sheriff's duty to provide copies to sureties and the protection of bail agents who may know that a defendant is a flight risk but elect to bond them anyway.

The Senate Committee amended the bill to:

- Modify who must provide a copy of the warrant to the compensated surety; and
- Modify the conditions under which a court may direct a bond be forfeited.

[*Note:* The Conference Committee retained these amendments.]

**House Committee on Judiciary.** In the House Committee hearing, Senator Owens and the representative of the KBAA provided **proponent** testimony that was similar to the testimony provided in the Senate Committee hearing and suggested amendments to further clarify when bond forfeitures must be set aside and to provide a tiered remission scheme.

Written-only proponent testimony was provided by a representative of the Kansas Sheriffs Association.

Neutral testimony was provided by a representative of the KCDAA, who stated support for the amendments made by the Senate Committee and the additional amendments proposed by proponents.

No other testimony was provided.

The House Committee amended the bill to:

- Clarify that a surety must make a request of the court to make a copy of the warrant available;
- Further clarify when a forfeiture involving a deported defendant must be set aside;
- Provide for a tiered remission of forfeited bond amounts depending on the number of days within which a defendant is returned to custody after forfeiture;
- Add the contents of SB 138, concerning the issuance of search warrants; and
- Add the contents of SB 244, concerning the regulation of compensated sureties.

[*Note:* The Conference Committee retained these amendments.]

*SB 138 (Issuance of Search Warrants)*

SB 138 was introduced by the Senate Committee on Judiciary at the request of a representative of the KCDAA.

**Senate Committee on Judiciary.** In the Senate Committee hearing, two representatives of KCDAA provided **proponent** testimony. The proponents stated that because search warrants have been requested by persons outside of law enforcement in at least two counties in the past year, making this clarifying change is necessary to protect the reasonable expectation of privacy of Kansas citizens who may be subject to search warrants issued only to harass or embarrass them.

No other testimony was provided.

**House Committee on Judiciary.** In the House Committee hearing, two representatives of KCDAA provided **proponent** testimony that was substantially similar to testimony provided in the Senate Committee hearing.

No other testimony was provided.

*SB 244 (Regulation of Compensated Sureties)*

SB 244 was introduced by the Senate Committee on Judiciary at the request of Senator Owens.

**Senate Committee on Judiciary.** In the Senate Committee hearing, **proponent** testimony was provided by Senator Owens and a representative of the KBAA. The proponents stated the purpose of this bill is to ensure bonding companies comply with the intent of legislation requiring minimum payments on bond premiums enacted in 2024.

Written-only proponent testimony was provided by a representative of the Kansas Sheriffs Association.

No other testimony was provided.

**Senate Committee of the Whole.** The Senate Committee of the Whole amended the bill to remove a requirement that any loan obtained for payment of a bond premium be obtained from a financial institution. [*Note:* The Conference Committee retained this amendment.]

**House Committee on Judiciary.** In the House Committee hearing, Senator Owens and a representative of KBAA provided **proponent** testimony that was substantially similar to testimony provided in the Senate Committee hearing.

Written-only proponent testimony was provided by representatives of the KCDAA and the Kansas Sheriffs Association.

No other testimony was provided.

*HB 2183 (Including AI in Certain Sex Crimes)*

HB 2183 was introduced by the House Committee on Judiciary at the request of Representative Barrett.

*House Committee on Judiciary*

In the House Committee hearing, **proponent** testimony was provided by Representative Barrett, the Shawnee County District Attorney, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and the Kansas Sheriffs Association. The proponents generally stated the bill would provide an additional tool to identify child sexual abuse offenders and prevent further harm to children.

Written-only proponent testimony was provided by a representative of the Wichita Police Department.

**Opponent** testimony was provided by a representative of BIDS. The opponent generally stated the bill would violate the freedom of speech protected by the First Amendment of the *U.S. Constitution*.

No other testimony was provided.

The House Committee amended the bill to:

- Modify the elements of the crime of sexual exploitation of a child;
- Add definitions of “artificially-generated visual depiction” and “obscene” in the crime of sexual exploitation of a child;
- Modify the definition of “visual depiction” in the crime of unlawful transmission of a visual depiction of a child;
- Modify the elements of the crime of breach of privacy; and
- Exempt cable service as defined by federal law from the crime of breach of privacy.

[*Note:* The Conference Committee retained these amendments.]

#### *House Committee of the Whole*

The House Committee of the Whole amended the provisions of the bill related to unlawful transmission of a visual depiction of a child to clarify the definition of “visual depiction” under the bill to include visual depictions of an identifiable child when knowingly transmitting such depictions. [*Note:* The Conference Committee retained this amendment.]

#### *Senate Committee on Judiciary*

In the Senate Committee hearing, Representative Barrett, the Shawnee County District Attorney, and the representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association provided **proponent** testimony that was substantially similar to the testimony provided in the House Committee hearing.

The representative of BIDS provided **opponent** testimony that was substantially similar to the testimony provided in the House Committee hearing.

No other testimony was provided.

The Senate Committee amended the bill to exempt direct-to-home satellite services and multi-video programming distributors and affiliates from the crime of breach of privacy. [*Note:* The Conference Committee retained this amendment.]

## **Fiscal Information**

### ***SB 186 (Probable Cause Information)***

According to the fiscal note prepared by the Division of the Budget on SB 186, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase expenditures for the Judicial Branch, but a precise fiscal effect cannot be estimated. Any fiscal effect associated with enactment of SB 186 is not reflected in *The FY 2026 Governor's Budget Report*.

### ***HB 2389 (Bond Setting—Sex Crimes)***

According to the fiscal note prepared by the Division of the Budget on HB 2389, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase expenditures for the Judicial Branch because the bill would require the court to consider certain factors when bond is being set for certain sex offenses. This would increase the time spent by district court judicial and non-judicial personnel in processing, researching, and hearing cases. However, a fiscal effect cannot be estimated. Any fiscal effect associated with HB 2389 is not reflected in *The FY 2026 Governor's Budget Report*.

### ***SB 157 (Kansas Code of Criminal Procedure)***

#### ***SB 157 (Forfeiture of Appearance Bonds)***

According to the fiscal note prepared by the Division of the Budget on SB 157, as introduced, the Office of Judicial Administration indicates enactment of the bill would have a minimal fiscal effect on the Judicial Branch that could be absorbed within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

#### ***SB 138 (Issuance of Search Warrants)***

According to the fiscal note prepared by the Division of the Budget on SB 138, as introduced, the Judicial Branch indicates enactment of the bill would have no fiscal effect on its operations.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that enactment of the bill would have no fiscal effect on local governments.

#### ***SB 244 (Regulation of Compensated Sureties)***

According to the fiscal note prepared by the Division of the Budget on SB 244, as introduced, the Office of Judicial Administration indicates enactment of the bill would have a minimal fiscal effect that could be absorbed within existing resources.

The Insurance Department indicates enactment of the bill would not have a fiscal effect on the agency.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2026 Governor's Budget Report*.

### ***HB 2183 (Including AI in Certain Sex Crimes)***

According to the fiscal note prepared by the Division of the Budget on HB 2183, as introduced, BIDS indicates enactment of the bill would increase agency expenditures on legal counsel and support staff by unknown amounts. BIDS estimates that on average, a severity level 8-10 person felony case requires 35 hours of direct work by an attorney to provide constitutionally adequate representation. Based on the rates of \$83.36 per hour for public defenders and \$125 per hour for assigned counsel, each new severity level 8-10 person felony case brought to the agency would result in State General Fund (SGF) expenditures of \$2,918 to \$4,375.

Further, BIDS indicates that on average, a severity level 4-7 person felony case requires 57 hours of work by an attorney. Therefore, each new severity level 4-7 person felony case brought to the agency would result in SGF expenditures of \$4,752 to \$7,152. The agency does not expect the misdemeanor provisions of the bill to have a fiscal effect on its operations, as it does not handle such cases. BIDS indicates that it may require 1.0 new FTE attorney position and possibly additional support staff depending on the number of new cases brought under the bill.

The Judicial Branch indicates that enactment of the bill has the potential to increase the number of cases filed in district courts. This may increase agency operating expenditures due to the additional time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. However the Judicial Branch is unable to calculate an exact estimate of this effect. Enactment of the bill has the potential to increase the collection of docket fees, fines, and supervision fees, which are deposited in the SGF; however, the amount of additional collections is unknown.

The Sentencing Commission indicates that enactment of the bill has the potential to increase prison admissions and the number of prison beds needed; however, an exact estimate of this effect cannot be determined.

The Department of Corrections indicates that enactment of the bill has the potential to increase agency operating expenditures depending on its effect on prison admissions and beds.

Any fiscal effect associated with the bill is not reflected in *The FY 2026 Governor's Budget Report*.

The Kansas Association of Counties indicates that enactment of the bill has the potential to increase county government expenditures on legal proceedings. The League of Kansas Municipalities indicates that enactment of the bill would have negligible fiscal effect on cities.

Criminal procedure; criminal history; warrants; bond; law enforcement; sex crimes; artificial intelligence; child pornography; breach of privacy; sexual exploitation of a child; unlawful transmission; visual depiction; appearance bonds; courts; sureties; failure to appear; criminal procedure; bond premiums

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