

As Amended by House Committee

Session of 2025

SENATE BILL No. 186

By Committee on Judiciary

2-4

1 AN ACT concerning **crimes, punishment and** criminal procedure;  
2 **relating to sentencing; providing that prior convictions of a crime**  
3 **defined by a statute that has since been determined**  
4 **unconstitutional by an appellate court shall not be used for**  
5 **criminal history scoring purposes unless the basis of the**  
6 **determination of unconstitutionality by the appellate court is later**  
7 **overruled or reversed;** relating to affidavits or sworn testimony in  
8 support of probable cause; requiring such information to be made  
9 available to law enforcement; **relating to release prior to trial;**  
10 **requiring that certain prior convictions be considered when bond is**  
11 **being set for certain sex offenses; specifying minimum**  
12 **requirements and conditions for such bond;** amending K.S.A. 21-  
13 **6810, 22-2302, 22-2802 and 22-2803** and repealing the existing ~~section~~  
14 **sections.**  
15

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

17 **Section 1. K.S.A. 21-6810 is hereby amended to read as follows:**  
18 **21-6810. (a) Criminal history categories contained in the sentencing**  
19 **guidelines grids are based on the following types of prior convictions:**  
20 **Person felony adult convictions, nonperson felony adult convictions,**  
21 **person felony juvenile adjudications, nonperson felony juvenile**  
22 **adjudications, person misdemeanor adult convictions, nonperson class**  
23 **A misdemeanor adult convictions, person misdemeanor juvenile**  
24 **adjudications, nonperson class A misdemeanor juvenile adjudications,**  
25 **select class B nonperson misdemeanor adult convictions, select class B**  
26 **nonperson misdemeanor juvenile adjudications and convictions and**  
27 **adjudications for violations of municipal ordinances or county**  
28 **resolutions**~~which that~~ **are comparable to any crime classified under**  
29 **the state law of Kansas as a person misdemeanor, select nonperson**  
30 **class B misdemeanor or nonperson class A misdemeanor. A prior**  
31 **conviction is any conviction, other than another count in the current**  
32 **case,**~~which that~~ **was brought in the same information or complaint or**  
33 **which was joined for trial with other counts in the current case**  
34 **pursuant to K.S.A. 22-3203, and amendments thereto,**~~which that~~  
35 **occurred prior to sentencing in the current case, regardless of whether**  
36 **the offense that led to the prior conviction occurred before or after the**

1 current offense or the conviction in the current case.

2 (b) A class B nonperson select misdemeanor is a special  
3 classification established for weapons violations. Such classification  
4 shall be considered and scored in determining an offender's criminal  
5 history classification.

6 (c) Except as otherwise provided, all convictions, whether  
7 sentenced consecutively or concurrently, shall be counted separately in  
8 the offender's criminal history.

9 (d) Except as provided in K.S.A. 21-6815, and amendments  
10 thereto, the following are applicable to determining an offender's  
11 criminal history classification:

12 (1) Only verified convictions will be considered and scored.

13 (2) All prior adult felony convictions, including expungements,  
14 will be considered and scored. Prior adult felony convictions for  
15 offenses that were committed before July 1, 1993, shall be scored as a  
16 person or nonperson crime using a comparable offense under the  
17 Kansas criminal code in effect on the date the current crime of  
18 conviction was committed.

19 (3) There will be no decay factor applicable for:

20 (A) Adult convictions;

21 (B) a juvenile adjudication for an offense committed before July  
22 1, 1993, which would have been a class A, B or C felony, if committed  
23 by an adult. Prior juvenile adjudications for offenses that were  
24 committed before July 1, 1993, shall be scored as a person or  
25 nonperson crime using a comparable offense under the Kansas  
26 criminal code in effect on the date the current crime of conviction was  
27 committed; or

28 (C) a juvenile adjudication for an offense committed on or after  
29 July 1, 1993, which would be an off-grid felony or a nondrug severity  
30 level 1 through 4 felony, if committed by an adult.

31 (4) Except as otherwise provided, a juvenile adjudication will  
32 decay if the current crime of conviction is committed after the  
33 offender reaches the age of 25, and the juvenile adjudication is for an  
34 offense:

35 (A) Committed before July 1, 1993, which would have been a  
36 class D or E felony, if committed by an adult;

37 (B) committed on or after July 1, 1993, which would be a  
38 nondrug severity level 5 through 10 felony, a nongrid felony or any  
39 drug felony, if committed by an adult; or

40 (C) which would be a misdemeanor, if committed by an adult.

41 (5) A juvenile adjudication will not be considered and scored if:

42 (A) The current crime of conviction is committed at least five  
43 years after the date of the prior adjudication;

1 (B) the offender has no new adjudications or convictions during  
2 such five-year period; and

3 (C) the juvenile adjudication is for an offense that would be a  
4 nondrug severity level 5 through 10 felony, drug felony, nongrid felony  
5 or misdemeanor, if committed by an adult.

6 (6) All person misdemeanors, class A nonperson misdemeanors  
7 and class B select nonperson misdemeanors, and all municipal  
8 ordinance and county resolution violations comparable to such  
9 misdemeanors, shall be considered and scored. Prior misdemeanors  
10 for offenses that were committed before July 1, 1993, shall be scored  
11 as a person or nonperson crime using a comparable offense under the  
12 Kansas criminal code in effect on the date the current crime of  
13 conviction was committed.

14 (7) Unless otherwise provided by law, unclassified felonies and  
15 misdemeanors, shall be considered and scored as nonperson crimes  
16 for the purpose of determining criminal history.

17 (8) Prior convictions of a crime defined by a statute that has since  
18 been repealed shall be scored using the classification assigned at the  
19 time of such conviction.

20 (9) Prior convictions of a crime defined by a statute that has since  
21 been determined unconstitutional by an appellate court shall not be  
22 used for criminal history scoring purposes *unless the basis of the*  
23 *determination of unconstitutionality by the appellate court is later*  
24 *overruled or reversed by an order or opinion of the supreme court of the*  
25 *state of Kansas or the United States supreme court.*

26 (10) Prior convictions of any crime shall not be counted in  
27 determining the criminal history category if they enhance the severity  
28 level, elevate the classification from misdemeanor to felony, or are  
29 elements of the present crime of conviction. Except as otherwise  
30 provided, all other prior convictions will be considered and scored.

31 (e) The amendments made to this section by section 1 of chapter 5  
32 of the 2015 Session Laws of Kansas are procedural in nature and shall  
33 be construed and applied retroactively.

34 ~~Section 1.~~ Sec. 2. K.S.A. 22-2302 is hereby amended to read as  
35 follows: 22-2302. (a) (1) If the magistrate finds from the complaint, or  
36 from an affidavit or affidavits filed with the complaint or from sworn  
37 testimony, that there is probable cause to believe both that a crime has  
38 been committed and that the defendant has committed it, a warrant for the  
39 arrest of the defendant shall issue, except that a summons instead of a  
40 warrant may be issued if:

41 (1)(A) The prosecuting attorney so requests; or

42 (2)(B) in the case of a complaint alleging commission of a  
43 misdemeanor, the magistrate determines that a summons should be issued.

1 (2) More than one warrant or summons may issue on the same  
2 complaint. If a defendant fails to appear in response to the summons, a  
3 warrant shall issue.

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

10 ~~(e)-(1) For a warrant or summons executed on or after July 1, 2014,~~  
11 ~~Affidavits or sworn testimony in support of the probable cause~~  
12 ~~requirement of this section shall be made available to law enforcement~~  
13 ~~agencies prior to execution of the warrant or summons, but shall not be~~  
14 ~~open to the general public until the warrant or summons has been~~  
15 ~~executed. After the warrant or summons has been executed, such affidavits~~  
16 ~~or sworn testimony shall be made available to:~~

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

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

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

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

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

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

40 (4) The magistrate shall review the requested affidavits or sworn  
41 testimony and any proposed redactions or motion to seal submitted by the  
42 defendant, the defendant's counsel or the prosecutor. The magistrate shall  
43 make appropriate redactions, or seal the affidavits or sworn testimony, as

1 necessary to prevent public disclosure of information that would:

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

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

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

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

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

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

13 (G) reveal the name, address, telephone number or any other  
14 information which specifically and individually identifies the victim of any  
15 sexual offense described in article 35 of chapter 21 of the Kansas Statutes  
16 Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas  
17 Statutes Annotated or K.S.A. 21-6419 through 21-6422, and amendments  
18 thereto;

19 (H) reveal the name of any minor;

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

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

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

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

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

41 (6) (A) If the magistrate orders disclosure of the affidavits or sworn  
42 testimony with appropriate redactions, if any, to any person in accordance  
43 with the requirements of this subsection, then such affidavits or sworn

1 testimony shall become part of the court record and shall be accessible to  
2 the public.

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

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

12 **Sec. 3. K.S.A. 22-2802 is hereby amended to read as follows: 22-**  
13 **2802. ~~(+)~~(a) Any person charged with a crime shall, at the person's**  
14 **first appearance before a magistrate, be ordered released pending**  
15 **preliminary examination or trial upon the execution of an appearance**  
16 **bond in an amount specified by the magistrate and sufficient to assure**  
17 **the appearance of such person before the magistrate when ordered**  
18 **and to assure the public safety. If the person is being bound over for a**  
19 **felony, the bond shall also be conditioned on the person's appearance**  
20 **in the district court or by way of a two-way electronic audio-video**  
21 **communication as provided in subsection ~~(+4)~~ (n) at the time required**  
22 **by the court to answer the charge against such person and at any time**  
23 **thereafter that the court requires. Unless the magistrate makes a**  
24 **specific finding otherwise, if the person is being bonded out for a**  
25 **person felony or a person misdemeanor, the bond shall be conditioned**  
26 **on the person being prohibited from having any contact with the**  
27 **alleged victim of such offense for a period of at least 72 hours. The**  
28 **magistrate may impose such of the following additional conditions of**  
29 **release as will reasonably assure the appearance of the person for**  
30 **preliminary examination or trial:**

31 **~~(a)~~(1) Place the person in the custody of a designated person or**  
32 **organization agreeing to supervise such person;**

33 **~~(b)~~(2) place restrictions on the travel, association or place of**  
34 **abode of the person during the period of release;**

35 **~~(c)~~(3) impose any other condition deemed reasonably necessary to**  
36 **assure appearance as required, including a condition requiring that**  
37 **the person return to custody during specified hours;**

38 **~~(d)~~(4) place the person under a house arrest program pursuant to**  
39 **K.S.A. 21-6609, and amendments thereto; or**

40 **~~(e)~~(5) place the person under the supervision of a court services**  
41 **officer responsible for monitoring the person's compliance with any**  
42 **conditions of release ordered by the magistrate. The magistrate may**  
43 **order the person to pay for any costs associated with the supervision**

1 provided by the court services department in an amount not to exceed  
2 \$15 per week of such supervision. The magistrate may also order the  
3 person to pay for all other costs associated with the supervision and  
4 conditions for compliance in addition to the \$15 per week.

5 ~~(2)~~(b) In addition to any conditions of release provided in  
6 subsection~~(1)~~(a), for any person charged with a felony, the magistrate  
7 may order such person to submit to a drug and alcohol abuse  
8 examination and evaluation in a public or private treatment facility or  
9 state institution and, if determined by the head of such facility or  
10 institution that such person is a drug or alcohol abuser or is  
11 incapacitated by drugs or alcohol, to submit to treatment for such  
12 drug or alcohol abuse, as a condition of release.

13 ~~(3)~~(c) The appearance bond shall be executed with sufficient  
14 solvent sureties who are residents of the state of Kansas, unless the  
15 magistrate determines, in the exercise of such magistrate's discretion,  
16 that requiring sureties is not necessary to assure the appearance of the  
17 person at the time ordered.

18 ~~(4)~~(d) A deposit of cash in the amount of the bond may be made  
19 in lieu of the execution of the bond pursuant to subsection~~(3)~~(c).  
20 Except as provided in subsection~~(5)~~(e), such deposit shall be in the full  
21 amount of the bond and in no event shall a deposit of cash in less than  
22 the full amount of bond be permitted. Any person charged with a  
23 crime who is released on a cash bond shall be entitled to a refund of all  
24 moneys paid for the cash bond, after deduction of any outstanding  
25 restitution, costs, fines and fees, after the final disposition of the  
26 criminal case if the person complies with all requirements to appear in  
27 court. The court may not exclude the option of posting bond pursuant  
28 to subsection~~(3)~~(c).

29 ~~(5)~~(e) Except as provided further, the amount of the appearance  
30 bond shall be the same whether executed as described in subsection~~(3)~~  
31 (c) or posted with a deposit of cash as described in subsection~~(4)~~(d).  
32 When the appearance bond has been set at \$2,500 or less and the most  
33 serious charge against the person is a misdemeanor, a severity level 8,  
34 9 or 10 nonperson felony, a drug severity level 4 felony committed  
35 prior to July 1, 2012, a drug severity level 5 felony committed on or  
36 after July 1, 2012, or a violation of K.S.A. 8-1567, and amendments  
37 thereto, the magistrate may allow the person to deposit cash with the  
38 clerk in the amount of 10% of the bond, provided the person meets at  
39 least the following qualifications:

40 ~~(A)~~(1) Is a resident of the state of Kansas;

41 ~~(B)~~(2) has a criminal history score category of G, H or I;

42 ~~(C)~~(3) has no prior history of failure to appear for any court  
43 appearances;

1       ~~(D)~~(4) has no detainer or hold from any other jurisdiction;  
2       ~~(E)~~(5) has not been extradited from, and is not awaiting  
3 extradition to, another state; and

4       ~~(F)~~(6) has not been detained for an alleged violation of probation.

5       ~~(G)~~(f) In the discretion of the court, a person charged with a crime  
6 may be released upon the person's own recognizance by guaranteeing  
7 payment of the amount of the bond for the person's failure to comply  
8 with all requirements to appear in court. The release of a person  
9 charged with a crime upon the person's own recognizance shall not  
10 require the deposit of any cash by the person.

11       ~~(7)~~(g) The court shall not impose any administrative fee.

12       ~~(8)~~(h) In determining which conditions of release will reasonably  
13 assure appearance and the public safety, the magistrate shall, on the  
14 basis of available information, take into account the nature and  
15 circumstances of the crime charged; the weight of the evidence against  
16 the defendant; whether the defendant is lawfully present in the United  
17 States; the defendant's family ties, employment, financial resources,  
18 character, mental condition, length of residence in the community,  
19 record of convictions, record of appearance or failure to appear at  
20 court proceedings or of flight to avoid prosecution; the likelihood or  
21 propensity of the defendant to commit crimes while on release,  
22 including whether the defendant will be likely to threaten, harass or  
23 cause injury to the victim of the crime or any witnesses thereto; and  
24 whether the defendant is on probation or parole from a previous  
25 offense at the time of the alleged commission of the subsequent  
26 offense.

27       ~~(9)~~(i) The appearance bond shall set forth all of the conditions of  
28 release.

29       ~~(10)~~(j) A person for whom conditions of release are imposed and  
30 who continues to be detained as a result of the person's inability to  
31 meet the conditions of release shall be entitled, upon application, to  
32 have the conditions reviewed without unnecessary delay by the  
33 magistrate who imposed them. If the magistrate who imposed  
34 conditions of release is not available, any other magistrate in the  
35 county may review such conditions.

36       ~~(11)~~(k) A magistrate ordering the release of a person on any  
37 conditions specified in this section may at any time amend the order to  
38 impose additional or different conditions of release. If the imposition  
39 of additional or different conditions results in the detention of the  
40 person, the provisions of subsection ~~(10)~~ (j) shall apply.

41       ~~(12)~~(l) Statements or information offered in determining the  
42 conditions of release need not conform to the rules of evidence. No  
43 statement or admission of the defendant made at such a proceeding



1 shall be received as evidence in any subsequent proceeding against the  
2 defendant.

3 ~~(13)~~(m) The appearance bond and any security required as a  
4 condition of the defendant's release shall be deposited in the office of  
5 the magistrate or the clerk of the court where the release is ordered. If  
6 the defendant is bound to appear before a magistrate or court other  
7 than the one ordering the release, the order of release, together with  
8 the bond and security shall be transmitted to the magistrate or clerk  
9 of the court before whom the defendant is bound to appear.

10 ~~(14)~~(n) Proceedings before a magistrate as provided in this section  
11 to determine the release conditions of a person charged with a crime  
12 including release upon execution of an appearance bond may be  
13 conducted by two-way electronic audio-video communication between  
14 the defendant and the judge in lieu of personal presence of the  
15 defendant or defendant's counsel in the courtroom in the discretion of  
16 the court. The defendant may be accompanied by the defendant's  
17 counsel. The defendant shall be informed of the defendant's right to be  
18 personally present in the courtroom during such proceeding if the  
19 defendant so requests. Exercising the right to be present shall in no  
20 way prejudice the defendant.

21 ~~(15)~~(o) The magistrate may order the person to pay for any costs  
22 associated with the supervision of the conditions of release of the  
23 appearance bond in an amount not to exceed \$15 per week of such  
24 supervision. As a condition of sentencing under K.S.A. 21-6604, and  
25 amendments thereto, the court may impose the full amount of any  
26 such costs in addition to the \$15 per week, including, but not limited  
27 to, costs for treatment and evaluation under subsection ~~(2)~~ (b).

28 (p) (1) *If a defendant is charged with rape, as described in K.S.A. 21-*  
29 *5503, and amendments thereto, criminal sodomy or aggravated criminal*  
30 *sodomy, as described in K.S.A. 21-5504, and amendments thereto,*  
31 *aggravated sexual battery, as described in K.S.A. 21-5505, and*  
32 *amendments thereto, or indecent liberties with a child or aggravated*  
33 *indecent liberties with a child, as described in K.S.A. 21-5506, and*  
34 *amendments thereto, the magistrate shall determine prior convictions of*  
35 *such offenses or comparable out-of-state convictions upon available*  
36 *evidence.*

37 (2) *If the magistrate determines that such defendant has a prior*  
38 *conviction of any crime that constitutes a sexually violent crime as defined*  
39 *in K.S.A. 22-4902, and amendments thereto, bond shall be at least*  
40 *\$750,000 cash or surety and have at least minimum conditions of no*  
41 *contact with any victims or witnesses and the magistrate shall place the*  
42 *person under a house arrest program pursuant to subsection (a)(4). Such*  
43 *bond shall not be reduced or modified downward unless the magistrate*

1 *determines by a preponderance of the evidence at an evidentiary hearing*  
2 *and makes a written finding on the record that the defendant is not a*  
3 *public safety risk and not a flight risk. At such evidentiary hearing, there*  
4 *shall be a presumption that the defendant is both a public safety risk and a*  
5 *flight risk.*

6 **Sec. 4. K.S.A. 22-2803 is hereby amended to read as follows: 22-**  
7 **2803. A person who remains in custody after review of such person's**  
8 **application pursuant to ~~subsection (9) or (10) of K.S.A. 22-2802(i) or~~**  
9 **(j), and amendments thereto, by a district magistrate judge may apply**  
10 **to a district judge of the judicial district in which the charge is**  
11 **pending to modify the order fixing conditions of release. Such motion**  
12 **shall be determined promptly.**

13 ~~Sec. 2. 5. K.S.A. 21-6810, 22-2302-~~is~~, 22-2802 and 22-2803 are~~  
14 hereby repealed.

15 ~~Sec. 3. 6. This act shall take effect and be in force from and after its~~  
16 publication in the statute book.