

SESSION OF 2025

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2323

As Amended by House Committee on Judiciary

Brief*

HB 2323, as amended, would create procedures and penalties for civil actions brought by the Kansas Insurance Commissioner (Commissioner). The bill would also require insurance producers or public adjusters to disclose expunged criminal records if the arrest, conviction, or diversion is for an act of insurance fraud (insurance fraud). The bill would also add automobile assigned claims plans to certain insurance fraud statutes.

Civil Procedures And Penalties

The bill would allow the Commissioner to bring a civil action in the district court of Shawnee County or any county in which alleged insurance fraud occurred, as defined by law. In such an action, the bill would require the Commissioner to prove by a preponderance of the evidence that the person committed insurance fraud.

In such an action, if the court finds the person committed insurance fraud, the court could:

- Impose a civil penalty of up to \$10,000 for each act of insurance fraud which would be paid into the State General Fund (SGF);
- Order the person to pay restitution to the insurer or automobile assigned claims plan to the extent of such insurer's or plan's actual pecuniary harm;

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

- Order payment of reasonable expenses and investigation fees incurred by the Kansas Insurance Department (Department) as a result of the insurance fraud which would be paid into the Insurance Department Service Regulation Fund; and
- Order such other relief as the court considers appropriate.

An aggrieved insurer or automobile assigned claims plan would not be allowed to be joined as a party in any action brought under the bill.

Testimony

The defendant and Commissioner would be authorized to present witness testimony through a two-way electronic audio-video communication device in such actions.

In such actions, a person would not be excused from testifying, producing a record or other evidence, or obeying a subpoena on the grounds that such action may tend to incriminate the individual or subject the person to a criminal fine, penalty, or forfeiture.

A court would be able to compel such testimony, record, or compliance with the subpoena. Such compelled action would be not allowed to be used directly or indirectly against the person in a criminal case, except in a prosecution for perjury or contempt or otherwise failing to comply with the court's order.

Expungement Disclosure

The bill would require any applicant for licensure as an insurance producer or public adjuster to disclose their arrest, conviction, or diversion related to instances of insurance fraud.

If records related to such arrest, conviction, or diversion have been expunged, the bill would allow the custodian of such records to disclose the records to the Commissioner or their designee as long as the request is accompanied by a statement that such request is made in conjunction with an application for licensure covered by the bill.

The bill would also make conforming amendments to carry out the provisions of the bill by adding the Kansas Automobile Assigned Claims Plan to certain insurance fraud statutes.

Background

The bill was introduced by the House Committee on Judiciary at the request of a representative of the Department.

House Committee on Judiciary

In the House Committee hearing, **proponent** testimony was provided by a representative of the Department. The proponents generally stated the bill would expand the Department's ability to address insurance fraud and lower costs for Kansans.

Written-only proponent testimony was provided by a representatives of the Coalition Against Insurance Fraud and National Insurance Crime Bureau.

No other testimony was provided.

The Committee amended the bill to require civil penalties from insurance fraud under this act be paid to the SGF and made a technical change to a fund name.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department would require \$85,000 from its fee funds to hire 1.0 Special Agent position starting in FY 2026. The position would assist in pursuing civil actions and imposing penalties for insurance fraud.

The Judicial Branch states that enactment of the bill could increase the number of cases filed in district court because the bill would allow the Commissioner to file a cause of action for insurance fraud. The time spent by district court judicial and nonjudicial personnel processing, researching, and hearing cases would increase as a result of additional cases. The bill could also increase the collection of docket fees that would be deposited into the SGF.

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

Fraudulent insurance acts; Insurance Commissioner; civil action; civil penalty; automobile assigned claims plans