

SESSION OF 2026

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2518

As Amended by House Committee on Judiciary

Brief*

HB 2518, as amended, would amend provisions of the Kansas Criminal Code related to the crime of breach of privacy, raise criminal penalties if the offender is over age 18 and the victim is under age 14, and make corresponding amendments to provisions related to attempt, conspiracy, and criminal solicitation. The bill would also make conforming amendments to criminal laws to implement the provisions of the bill and would define the terms “lawful authority” and “nude.”

Criminal Culpability

The bill would revise the required criminal culpability for the crime of breach of privacy from knowingly committing the offense without lawful authority to intentionally committing the offense without lawful authority.

Elements of the Offense

Under current law, criminal breach of privacy includes several actions that would meet the definition of the crime.

Recording Nudity or Undergarments

The bill would amend provisions related to using technology to record another person for the purpose of viewing their nude body or undergarments.

*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/>

The bill would revise these elements to:

- Specify methods of recording include any device or software;
- Specify the recording mediums include any image, video, or other recording;
- Add an element of viewing; and
- Specify the purposes of creating or viewing the record would be for the purpose of recording or viewing the nude body of another identifiable person or their worn undergarments.

Revised Elements—Image, Video, or Other Recording

The bill would amend elements of other specific offenses within the crime of breach of privacy to include any image, video, or other recording, and to remove videotape, photograph, and film. These offenses would include:

- Disseminating or permitting the dissemination of a record obtained through breach of privacy; and
- Disseminating any record obtained through breach of privacy, including a record that has been altered or modified by artificial intelligence, which depicts a person over age 18 or who is nude or engaged in sexual activity with the intent to harass, threaten, or intimidate without their consent.

Criminal Penalties

The bill would amend criminal penalty levels for those breach of privacy offenses amended by the bill.

Recording Nudity or Undergarments

Under current law, the offense is a severity level 8 person felony and a second or subsequent offense within the previous 5 years is a severity level 5 person felony.

The bill would provide that for the first offense where the victim is age 14 or older, but less than age 18, the offense would be classified as as severity level 5 person felony.

If the victim is under age 14 and the offender is at least age 18, the offense would be classified as an off-grid person felony. This penalty would also be applied to an attempt, conspiracy, or criminal solicitation of the offense.

Disseminating or Permitting an Image or Recording Obtained through Breach of Privacy to be Disseminated

Under current law, the offense is a severity level 5 person felony.

If the victim is under age 14 and the offender is at least age 18, the offense would be classified as an off-grid person felony. This penalty would also be applied to an attempt, conspiracy, or criminal solicitation of the offense.

Background

The bill 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 a representative of the Kansas County and District Attorneys Association and the Sedgwick County District Attorney's Office; a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers

Association, and Kansas Sheriffs' Association; and a private citizen. The proponents stated the bill would address recent court decisions and by including different penalties for child victims, the bill would more closely align the statute with child pornography offenses.

No other testimony was provided.

The House Committee amended the bill by updating references to technology used to create records obtained through breach of privacy.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Sentencing Commission (Commission) estimates enactment of the bill would result in no change to the number of adult prison beds needed in FY 2027 and three additional beds needed in FY 2028. By the end of FY 2036, the Commission estimates an additional 22 beds would be needed. The current estimated available bed capacity is 9,924 for males and 968 for females. Based upon the Commission's most recent 10-year projection contained in its FY 2026 Adult Inmate Prison Population Projections report, it is estimated that the year-end population would total 9,176 male and 924 female inmates in FY 2026 and 9,485 male and 953 female inmates in FY 2027.

The Kansas Department of Corrections (KDOC) estimates enactment of the bill would increase State General Fund (SGF) expenditures by \$16,459 in FY 2028. This estimated cost is based on the marginal cost to house additional inmates, which represents the cost to add one inmate to the system and includes certain variables. KDOC notes that the inmate population is expected to exceed capacity by FY 2029 and that capacity expansion options are included in its five-year capital improvements plan.

The Board of Indigents Defense Services (Board) estimates that enactment of the bill would increase SGF expenditures by \$16,500 in both FY 2027 and FY 2028. The Board indicates that off-grid person felony cases require approximately 167 hours of defense attorney work time to meet the minimum standards of constitutionally effective representation, compared to 35 hours for the current severity level 8 and level 10 felonies. This difference was multiplied by the assigned counsel rate of \$125 per hour to reach the estimated cost of \$16,500 per case. Between 2019 and 2023, there were 26 convictions under the relevant breach of privacy subsections and only 12 required appointed counsel. The Board estimates one case per year would be charged under the bill's provisions.

The Judicial Branch indicates enactment of the bill could increase the number of cases filed in district courts because it creates increased penalties for certain offenses. This could increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of docket fees and fines, which would be deposited into the SGF. However, the Judicial Branch states any fiscal effect would be negligible and could be absorbed within existing resources. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2027 Governor's Budget Report*.

The Kansas Association of Counties indicates that enactment of the bill could result in increased costs for county prosecution if more expert testimony is required regarding the mental state of defendants. The League of Kansas Municipalities indicates that enactment of the bill could increase training costs for law enforcement officers. However, neither organization was able to provide a specific estimate of the fiscal effect on local governments.

Crimes; criminal procedure; penalties; culpability; breach of privacy