

SESSION OF 2025

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 186**

As Amended by House Committee on Judiciary

**Brief\***

SB 186, as amended, would amend criminal procedure laws related to the availability of probable cause information, setting bond for persons charged with certain sex offenses, and scoring the criminal history of an offender in certain circumstances.

The bill would also make technical amendments to implement its provisions.

***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.

***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;

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\*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/>

- Aggravated sexual battery; or
- Indecent liberties with a child or aggravated indecent liberties with a child.

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 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.

### ***Criminal History Scoring—Unconstitutional Crimes***

Under continuing law, a sentencing court may not consider statutorily defined crimes that have been determined by an appellate court to be unconstitutional when calculating an offender's criminal history score.

The bill would create an exception that would require a conviction of a previously determined unconstitutional crime be included in a criminal history score calculation if the decision making the offense unconstitutional is later overruled or reversed by an order or opinion of the Supreme Court of Kansas or the Supreme Court of the United States.

## **Background**

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 State Board of Indigents' Defense Services.

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 the State Board of Indigents' Defense Services.

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.

***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 & District Attorneys Association. 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 the Board of Indigents' Defense Services (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.

## **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*.

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

According to the fiscal note prepared by the Division of the Budget on HB 2401, 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. Any fiscal effect associated with HB 2401 is not reflected in *The FY 2026 Governor's Budget Report*.

Criminal procedure; criminal history; warrants; bond; law enforcement; sex crimes