

HOUSE BILL No. 2447

By Committee on Taxation

3-23

crimes, punishment and criminal procedure;  
relating to preliminary hearings; authorizing  
testimony at a preliminary hearing to be presented  
through the use of a two-way electronic audio-  
video communication device

22-2902

1 AN ACT concerning ~~securities; relating to the securities act fee fund;~~  
2 ~~terminating the transfer of remaining unencumbered moneys in such~~  
3 ~~fund over \$50,000 to the state general fund; amending K.S.A. 2020~~  
4 ~~Supp. 17-12a601 and repealing the existing section.~~

5  
6 *Be it enacted by the Legislature of the State of Kansas:*  
7 Section 1. ~~K.S.A. 2020 Supp. 17-12a601 is hereby amended to read~~  
8 ~~as follows: 17-12a601. (a) Administration. (1) This act shall be~~  
9 ~~administered by the securities commissioner of Kansas.~~

10 ~~(2) All fees herein provided for shall be collected by the~~  
11 ~~administrator. All salaries and expenses necessarily incurred in the~~  
12 ~~administration of this act shall be paid from the securities act fee fund.~~

13 ~~(3) The administrator shall remit all moneys received from all fees,~~  
14 ~~charges, deposits or penalties which have been collected under this act or~~  
15 ~~other laws of this state regulating the issuance, sale or disposal of~~  
16 ~~securities or regulating dealers in this state to the state treasurer at least~~  
17 ~~monthly. Upon receipt of any such remittance, the state treasurer shall~~  
18 ~~deposit the entire amount thereof in the state treasury. In accordance with~~  
19 ~~K.S.A. 75-3170a, and amendments thereto, 10% of each such deposit shall~~  
20 ~~be credited to the state general fund and, except as provided in subsection~~  
21 ~~(d), the balance shall be credited to the securities act fee fund.~~

22 ~~(4) On the last day of each fiscal year, the director of accounts and~~  
23 ~~reports shall transfer from the securities act fee fund to the state general~~  
24 ~~fund any remaining unencumbered amount in the securities act fee fund~~  
25 ~~exceeding \$50,000 so that the beginning unencumbered balance in the~~  
26 ~~securities act fee fund on the first day of each fiscal year is \$50,000. All~~  
27 ~~expenditures from the securities act fee fund shall be made in accordance~~  
28 ~~with appropriation acts upon warrants of the director of accounts and~~  
29 ~~reports issued pursuant to vouchers approved by the administrator or by a~~  
30 ~~person or persons designated by the administrator.~~

31 ~~(5) All amounts transferred from the securities act fee fund to the~~  
32 ~~state general fund under paragraph (4) are to reimburse the state general~~  
33 ~~fund for accounting, auditing, budgeting, legal, payroll, personnel and~~  
34 ~~purchasing services and any other governmental services which are~~  
35 ~~performed on behalf of the state agency involved by other state agencies~~  
36 ~~which receive appropriations from the state general fund to provide such~~

Strike Section 1

1 ~~services.~~

2 ~~(b) Prohibited conduct. (1) It is unlawful for the administrator or an~~  
3 ~~officer, employee, or designee of the administrator to use for personal~~  
4 ~~benefit or the benefit of others records or other information obtained by or~~  
5 ~~filed with the administrator that are not public under K.S.A. 17-12a607(b),~~  
6 ~~and amendments thereto. This act does not authorize the administrator or~~  
7 ~~an officer, employee, or designee of the administrator to disclose the~~  
8 ~~record or information, except in accordance with K.S.A. 17-12a602, 17-~~  
9 ~~12a607(c), or 17-12a608, and amendments thereto.~~

10 ~~(2) Neither the administrator nor any employee of the administrator~~  
11 ~~shall be interested as an officer, director, or stockholder in securing any~~  
12 ~~authorization to sell securities under the provisions of this act.~~

13 ~~(c) No privilege or exemption created or diminished. This act does~~  
14 ~~not create or diminish a privilege or exemption that exists at common law,~~  
15 ~~by statute or rule, or otherwise.~~

16 ~~(d) Investor education and protection. (1) The administrator may~~  
17 ~~develop and implement investor education and protection initiatives to~~  
18 ~~inform the public about investing in securities and protect the public from~~  
19 ~~violations of the Kansas uniform securities act, K.S.A. 17-12a101 et seq.,~~  
20 ~~and amendments thereto. Such initiatives shall have a particular emphasis~~  
21 ~~on the prevention, detection, enforcement and prosecution of securities~~  
22 ~~fraud. In developing and implementing these initiatives, the administrator~~  
23 ~~may collaborate with public and nonprofit organizations with an interest in~~  
24 ~~investor education or protection. The administrator may accept a grant or~~  
25 ~~donation from a person that is not affiliated with the securities industry or~~  
26 ~~from a nonprofit organization, regardless of whether the organization is~~  
27 ~~affiliated with the securities industry, to develop and implement investor~~  
28 ~~education and protection initiatives. This subsection does not authorize the~~  
29 ~~administrator to require participation or monetary contributions of a~~  
30 ~~registrant in an investor education program.~~

31 ~~(2) There is hereby established in the state treasury the investor~~  
32 ~~education and protection fund. Such fund shall be administered by the~~  
33 ~~administrator for the purposes described in subsection (d)(1) and for the~~  
34 ~~education of registrants, including official hospitality. Moneys collected as~~  
35 ~~civil penalties under this act shall be credited to the investor education and~~  
36 ~~protection fund. The administrator may also receive payments designated~~  
37 ~~to be credited to the investor education and protection fund as a condition~~  
38 ~~in settlements of cases arising out of investigations or examinations. All~~  
39 ~~expenditures from the investor education and protection fund shall be~~  
40 ~~made in accordance with appropriation acts upon warrants of the director~~  
41 ~~of accounts and reports issued pursuant to vouchers approved by the~~  
42 ~~administrator or by a person or persons designated by the administrator.~~

43 ~~Sec. 2. K.S.A. 2020 Supp. 17-12a601 is hereby repealed.~~

Section 1. K.S.A. 22-2902 is hereby amended to read as follows - see attachment

22-2902

statute book

1 Sec. 3. This act shall take effect and be in force from and after its  
2 publication in the ~~Kansas register.~~

Attachment

Section 1. K.S.A. 22-2902 is hereby amended to read as follows: 22-2902. ~~(1)~~ [\(a\)](#) The state and every person charged with a felony shall have a right to a preliminary examination before a magistrate, unless such charge has been issued as a result of an indictment by a grand jury.

~~(2)~~ [\(b\)](#) The preliminary examination shall be held before a magistrate of a county in which venue for the prosecution lies within 14 days after the arrest or personal appearance of the defendant. Continuances may be granted only for good cause shown.

~~(3)~~ [\(c\)](#) The defendant shall not enter a plea at the preliminary examination. The defendant shall be personally present and except for witnesses who are children less than 13 years of age, the witnesses shall be examined in the defendant's presence. The defendant's voluntary absence after the preliminary examination has been begun in the defendant's presence shall not prevent the continuation of the examination. Except for witnesses who are children less than 13 years of age, the defendant shall have the right to cross-examine witnesses against the defendant and introduce evidence in the defendant's own behalf. If from the evidence it appears that a felony has been committed and there is probable cause to believe that a felony has been committed by the defendant, the magistrate shall order the defendant bound over to the district judge having jurisdiction to try the case; otherwise, the magistrate shall discharge the defendant. When the victim of the felony is a child less than 13 years of age, the finding of probable cause as provided in this subsection may be based upon hearsay evidence in whole or in part presented at the preliminary examination by means of statements made by a child less than 13 years of age on a videotape recording or by other means.

~~(4)~~ [\(d\)](#) The defendant and the state shall be permitted to present the testimony of a witness through a two-way electronic audio-video communication device.

[\(e\)](#) If the defendant and the state waive preliminary examination, the magistrate shall order the defendant bound over to the district judge having jurisdiction to try the case.

~~(5)~~ [\(f\)](#) Any judge of the district court may conduct a preliminary examination, and a district judge may preside at the trial of any defendant even though such judge presided at the preliminary examination of such defendant.

~~(6)~~ [\(g\)](#) The complaint or information, as filed by the prosecuting attorney pursuant to K.S.A. 22-2905, and amendments thereto, shall serve as the formal charging document at trial. When a defendant and prosecuting attorney reach agreement on a plea of guilty or nolo contendere, the defendant and the prosecuting attorney shall notify the district court of such agreement and arrange for a time to plead, pursuant to K.S.A. 22-3210, and amendments thereto.

~~(7)~~ [\(h\)](#) The judge of the district court, when conducting the preliminary examination, shall have the discretion to conduct arraignment, subject to assignment pursuant to K.S.A. 20-329, and amendments thereto, at the conclusion of the preliminary examination.