

## HOUSE BILL No. 2389

By Committee on Judiciary

2-12

---

1 AN ACT concerning crimes, punishment and criminal procedure;  
2 authorizing a notice to appear for unlawful possession of marijuana to  
3 be deemed a complaint in the Kansas code of criminal procedure;  
4 amending K.S.A. 2020 Supp. 22-2202 and repealing the existing  
5 section.  
6

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

8 Section 1. K.S.A. 2020 Supp. 22-2202 is hereby amended to read as  
9 follows: 22-2202. (a) "Appellate court" means the supreme court or court  
10 of appeals, depending on the context in which the term is used and the  
11 respective jurisdiction of those courts over appeals in criminal cases, as  
12 provided in K.S.A. 22-3601, and amendments thereto.

13 (b) "Appearance bond" means an agreement, with or without security,  
14 entered into by a person in custody by which the person is bound to  
15 comply with the conditions specified in the agreement.

16 (c) "Arraignment" means the formal act of calling the defendant  
17 before a court having jurisdiction to impose sentence for the offense  
18 charged, informing the defendant of the offense with which the defendant  
19 is charged, and asking the defendant whether the defendant is guilty or not  
20 guilty.

21 (d) "Arrest" means the taking of a person into custody in order that  
22 the person may be forthcoming to answer for the commission of a crime.  
23 The giving of a notice to appear is not an arrest.

24 (e) "Bail" means the security given for the purpose of insuring  
25 compliance with the terms of an appearance bond.

26 (f) "Bind over" means require a defendant to appear and answer  
27 before a district judge having jurisdiction to try the defendant for the  
28 felony with which the defendant is charged.

29 (g) "Charge" means a written statement presented to a court accusing  
30 a person of the commission of a crime and includes a complaint,  
31 information or indictment.

32 (h) "Complaint" means a written statement under oath of the essential  
33 facts constituting a crime, except that *the following shall be deemed a*  
34 *valid complaint if it is signed by the law enforcement officer:*

35 (1) A citation or notice to appear issued by a law enforcement officer  
36 pursuant to and in compliance with K.S.A. 8-2106, and amendments

1 thereto, or;

2 (2) a citation or notice to appear issued pursuant to and in compliance  
3 with K.S.A. 32-1049, and amendments thereto, ~~shall be deemed a valid~~  
4 ~~complaint if it is signed by the law enforcement officer; or~~

5 (3) *a notice to appear issued by a law enforcement officer pursuant*  
6 *to K.S.A. 22-2408, and amendments thereto, for a violation of K.S.A. 2020*  
7 *Supp. 21-5706, and amendments thereto, when the substance involved is*  
8 *marijuana.*

9 (i) "Custody" means the restraint of a person pursuant to an arrest or  
10 the order of a court or magistrate.

11 (j) "Detention" means the temporary restraint of a person by a law  
12 enforcement officer.

13 (k) "Indictment" means a written statement, presented by a grand jury  
14 to a court, ~~which that~~ charges the commission of a crime.

15 (l) "Information" means a verified written statement signed by a  
16 county attorney or other authorized representative of the state of Kansas  
17 presented to a court, ~~which that~~ charges the commission of a crime. An  
18 information verified upon information and belief by the county attorney or  
19 other authorized representative of the state of Kansas shall be sufficient.

20 (m) "Law enforcement officer" means any person who by virtue of  
21 office or public employment is vested by law with a duty to maintain  
22 public order or to make arrests for violation of the laws of the state of  
23 Kansas or ordinances of any municipality thereof or with a duty to  
24 maintain or assert custody or supervision over persons accused or  
25 convicted of crime, and includes court services officers, community  
26 corrections officers, parole officers and directors, security personnel and  
27 keepers of correctional institutions, jails or other institutions for the  
28 detention of persons accused or convicted of crime, while acting within the  
29 scope of their authority.

30 (n) "Magistrate" means an officer having power to issue a warrant for  
31 the arrest of a person charged with a crime and includes justices of the  
32 supreme court, judges of the court of appeals and judges of district courts.

33 (o) "Notice to appear" means a written request, issued by a law  
34 enforcement officer, that a person appear before a designated court at a  
35 stated time and place.

36 (p) "Preliminary examination" means a hearing before a magistrate  
37 on a complaint or information to determine if a felony has been committed  
38 and if there is probable cause to believe that the person charged committed  
39 it.

40 (q) "Prosecuting attorney" means any attorney who is authorized by  
41 law to appear for and on behalf of the state of Kansas in a criminal case,  
42 and includes the attorney general, an assistant attorney general, the county  
43 or district attorney, an assistant county or district attorney and any special

1 prosecutor whose appearance is approved by the court. In the case of  
2 prosecution for violation of a city ordinance, also, "prosecuting attorney"  
3 means the city attorney or any assistant city attorney.

4 (r) "Search warrant" means a written order made by a magistrate  
5 directed to a law enforcement officer commanding the officer to search the  
6 premises described in the search warrant and to seize property described or  
7 identified in the search warrant.

8 (s) "Summons" means a written order issued by a magistrate directing  
9 that a person appear before a designated court at a stated time and place  
10 and answer to a charge pending against the person.

11 (t) "Warrant" means a written order made by a magistrate directed to  
12 any law enforcement officer commanding the officer to arrest the person  
13 named or described in the warrant.

14 Sec. 2. K.S.A. 2020 Supp. 22-2202 is hereby repealed.

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