As Amended by Senate Committee

Session of 2026

SENATE BILL No. 463

By Committee on Judiciary

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AN ACT concerning civil actions; relating to actions in negligence; prohibiting certain persons from recovering damages in such actions; creating requirements for actions involving negligent security.

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

Section 1. (a) Notwithstanding any other provision of law, a person who engaged or participated in wrongful conduct or attempted to engage or participate in wrongful conduct shall not bring an action for negligence or collect damages for negligent conduct related to such wrongful conduct. The party against whom negligence is alleged shall have the burden of proving, by a preponderance of the evidence, that a person was engaging or participating in wrongful conduct or attempting to engage or participate in wrongful conduct.

(b) (1) General damages, including, but not limited to, damages in the form of past or future wages, shall not be awarded in an action for negligence arising from an automobile accident to a person who was an unauthorized alien at the time of such accident. A party in an action for negligence arising from an automobile accident that intends to seek general damages or past and future wages shall provide, with the initial disclosure statement or as soon thereafter as is practicable, documents showing that, at the time of the accident, the damaged person was a citizen or lawful permanent resident of the United States and not an unauthorized alien. The party seeking damages shall have the burden of proof under this subsection by a preponderance of the evidence, and failure to meet such burden shall constitute insufficient evidence as a matter of law to support an award of general damages or past and future wages.

(2) This subsection shall not apply to a claim made against an uninsured or underinsured motorist policy that names the unauthorized alien as the insured.

(c) (1) Except as provided in paragraph (2), in an action for negligent security, an owner or occupier has no duty to protect an invitee or licensee from any type of wrongful conduct of a third person unless the owner or occupier has actual knowledge of previous occurrences of substantially similar wrongful conduct on the premises within the immediately preceding year. If an owner or occupier has such knowledge, the owner or occupier shall have a duty to take reasonable care under the circumstances.

There shall be a presumption that such duty was met if the owner or occupier:

(A) Requested the assistance of law enforcement and followed any instructions given by law enforcement;

(B) followed the guidelines of a reputable third party related to security and safety measures; or

(C) hired a security contractor.

(2) For the purposes of this section, an owner or occupier has no duty to protect an invitee or licensee from the invitee's or licensee's own wrongful conduct or the wrongful conduct of a third person if the invitee or licensee is on the premises for the purpose of or in the course of engaging in wrongful conduct or the invitee or licensee engages in wrongful conduct while on the premises.

(3) A person committing a violation of K.S.A. 21-5808, and amendments thereto, or a person on the premises outside of posted business hours or during a period of time that the premises is not open to the public shall not maintain an action for negligent security.

(4) If an owner or occupier has engaged a security contractor, such contractor shall have the same duties as the owner or occupier has under this section.

(5) (A) If the trier of fact finds that a party is liable in an action for negligent security, the trier of fact shall make an apportionment of fault and be instructed to apportion fault among all of the following, regardless of whether damages may be collected from such person:

(i) The party bringing the claim of negligent security;

(ii) the owner or occupier;

(iii) any governmental agency or unit of government that failed to enforce the law or maintain law and order;

(iv) any third person whose wrongful conduct or negligence contributed to the event giving rise to the cause of action; and

(v) any other person whom the trier of fact deems necessary.

(B) No party shall offer evidence or make an argument or comment to the trier of fact concerning:

(i) Any criminal penalty that has been or could be imposed against any person for the wrongful conduct giving rise to the cause of action;

(ii) the financial resources of or ability to collect a judgment from any party or nonparty; or

(iii) the effect an apportionment of fault has on any award of damages.

(C) If the trier of fact fails to apportion fault pursuant to subparagraph (A), the court shall set aside the verdict and order a retrial of liability and damages. There shall be a presumption that an apportionment of fault is unreasonable if the total percentage of fault apportioned to persons who

engaged in wrongful conduct is less than the total percentage of fault apportioned to all other persons. Any such apportionment of fault shall be accompanied by written findings, and such apportionment shall be subject to appeal de novo.

(d) Nothing in this section shall prevent a victim of a crime from recovering restitution.

(e) This section applies to any claim that is pending or filed on and after July 1, 2026.

(f) As used in this section:

(1) "Negligent security" means any claim against an owner or occupier or security contractor that sounds in tort or nuisance arising from an alleged failure to make or keep the premises and approaches safe and seeks to recover any damages;

(2) "owner or occupier" means any person that owns, leases, subleases, occupies, operates, maintains or manages real property or any director, officer, employee or agent of such person;

(3) "previous occurrences of substantially similar wrongful conduct" means occurrences that are sufficiently similar in nature, character, circumstances and degree of dangerousness to the wrongful conduct giving rise to the claim of negligent security such that a reasonable person in the position of the owner or occupier would:

(A) Have reason to believe that such wrongful conduct is reasonably likely to occur again; and

(B) understand that a specific and known physical condition of the premises has created a risk of such wrongful conduct on the premises that is substantially greater than the general risk of such wrongful conduct in the vicinity of the premises;

(4) "security contractor" means any person that contracts with an owner or occupier to provide protective or security services upon any premises or any director, officer, employee or agent of such person;

(5) "third person" means any person other than an owner or occupier, a security contractor or a person under the direction, control or supervision of an owner or occupier or security contractor;

(6) "unauthorized alien" means a person who is unlawfully present in the United States under the immigration and nationality act, 8 U.S.C. 1101 et seq.; and

(7) "wrongful conduct" means any:

(A) Violation of ~~federal or state law or an ordinance or resolution adopted by a political subdivision of the state that constitutes a crime, regardless of whether such violation results in an arrest, citation, indictment or conviction~~***:***

(i) Federal law that constitutes a crime, regardless of whether such violation results in an arrest, citation, indictment or conviction; or

(ii) state law or an ordinance or resolution adopted by a political subdivision of the state that constitutes a felony or a class A or B misdemeanor, regardless of whether such violation results in an arrest, citation, indictment or conviction; or

(B) other conduct that constitutes an intentional or reckless tort.

(g) The provisions of this act are severable. If any portion of this act is held by a court to be unconstitutional or invalid, or the application of any portion of this act to any person or circumstance is held by a court to be unconstitutional or invalid, the invalidity shall not affect other portions of this act that can be given effect without the invalid portion or application, and the applicability of such other portions of this act to any person or circumstance remains valid and enforceable.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.