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**REVISOR *of* STATUTES**  
LEGISLATURE *of* THE STATE *of* KANSAS  
*Legislative Attorneys transforming ideas into legislation.*

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**MEMORANDUM**

To: House Committee on Judiciary  
From: Office of Revisor of Statutes  
Date: February 13, 2025  
Subject: Bill Brief for HB 2323 (As Introduced)

House Bill 2323 establishes procedures for a civil action instituted by the commissioner of insurance related to fraudulent insurance acts, provides that expunged criminal records will be disclosed in any application for licensure as an insurance producer or public adjuster if the arrest, conviction or diversion is for a fraudulent insurance act, and includes automobile assigned claims plans in provisions related to fraudulent insurance acts.

Section 1 creates a new law to provide that if the commissioner of insurance believes that a person has committed a fraudulent insurance act, as defined in K.S.A. 40-2,118, the commissioner may bring a civil action in the district court of Shawnee county or in the district court of any county in which an alleged fraudulent insurance act occurred. If the court finds by a preponderance of the evidence that the person committed a fraudulent insurance act, the court may: (1) Impose a civil penalty of up to \$10,000 for each fraudulent insurance act, which shall be paid into the insurance department service regulation fund; (2) order the person who engaged in the fraudulent insurance act to pay restitution to the insurer or automobile assigned claims plan to the extent of such insurer's or plan's actual pecuniary harm; (3) order payment of reasonable expenses and investigation fees incurred by the department of insurance as a result of the fraudulent insurance act or acts, which shall be paid into the department of insurance service regulation fund; and (4) order such other relief as the court considers appropriate. In these civil actions, an aggrieved insurer or automobile assigned claims plan shall not be joined as a party and the defendant and the commissioner shall be permitted to present the testimony of witnesses through a two-way electronic audio-video communication device. Finally, a person shall not be excused from testifying, producing a record or other evidence or obeying a subpoena on the ground that the required testimony, record or other evidence, directly or indirectly, may tend to incriminate the individual or subject the person to a criminal fine, penalty or forfeiture.

Section 2 amends K.S.A. 21-6614, the criminal code statute concerning expungement of certain convictions, arrest records and diversion agreements. Current law provides that after an order of expungement is entered, the person shall continue to disclose that the arrest, conviction or diversion occurred if asked about previous arrests, convictions or diversions in certain applications and other situations. The bill adds that disclosure is required in any application for licensure as an insurance producer or public adjuster if the arrest, conviction or diversion is for one or more instances of a fraudulent insurance act. The bill also requires the custodian of the records of arrest, conviction, diversion and incarceration relating to the crime to disclose the existence of such records when requested by the Kansas insurance commissioner or a designee of the commissioner, and the request is accompanied by a statement that the request is being made in conjunction with an application for licensure as an insurance producer or public adjuster and the arrest, conviction or diversion is for one or more instances of a fraudulent insurance act.

Section 3 amends K.S.A. 40-2,118, the statute that defines fraudulent insurance act, to add references to automobile assigned claims plans throughout the section. Section 4 amends K.S.A. 40-2,119, relating to immunity from civil liability for certain persons, to add a reference to an automobile assigned claims plan.

The bill would take effect from and after publication in the statute book, July 1, 2025.