



House Judiciary Committee
March 11, 2025
Senate Bill 186
Testimony of the BIDS Legislative Committee
Presented by James Houston Bales
Neutral

Chairperson Humphries and Members of the Committee:

SB 186 proposes that Kansas law make the affidavit of probable cause available to arresting officers every time a warrant is issued in the State of Kansas. While the merits of additional knowledge for arresting officers are plain, the BIDS Legislative Committee would urge this committee to keep several things in mind as this bill is considered.

Studies show the confirmation bias can foul the reliability of all kinds of human activities. The concept is simple: if you know what you are looking for, you are more likely to see it instead of drawing conclusions from a neutral starting place. Allowing arresting officers access to the affidavit at the issuance of a warrant introduces an element of confirmation bias that may inform the way police act when interacting with the person being arrested. Arrests for contraband may encourage arresting officers to push the envelope on searches, potentially infringing on the 4th Amendment in a zealous attempt to add more to the case. And as law enforcement officers are human and contain the same potentials for bias that all mankind has, knowing during arrest that a particularly heinous act was alleged to have occurred may lead to increased risks of retributive behavior towards persons accused during arrest.

It is also important to remember that at the stage this bill proposes to give uninvolved officers additional information that is unnecessary to their ability to do their jobs; the affidavit is merely an accusation. It is proof only to the lowest burden available to our judicial system: probable cause. Essentially, the affidavit is an accusation of a crime against a person presumed to be innocent of that crime, nothing more. To allow otherwise uninvolved officers the opportunity to digest accusations before contact is concerning.

Finally, the broader distribution of affidavits increases the possibility of information leaks. As the bill is currently worded, there would be no discretion to hold back particularly sensitive affidavits, such as those involving confidential assets or accusing officers of crimes. The use of the word “shall” would force the disclosure of every affidavit at the arrest stage. Some provision to allow certain affidavits to be held back may warrant consideration. For the above reasons, the BIDS Legislative Committee is NEUTRAL on this bill

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