



**Senate Committee on Federal and State Affairs  
February 27, 2025**

**Senate Bill 254  
Testimony of the BIDS Legislative Committee  
Presented by Clayton J. Perkins  
Opponent**

Chairperson Thompson and Members of the Committee:

Sec. 2 of SB 254 adds language to Kansas' bail laws that facially violates the right of all people in Kansas to bail by sufficient sureties as established by Section 9 of Kansas' Bill of Rights. It is also a redundant provision as Kansas law already requires a judge to consider a defendant is lawfully present in the United States in determining the conditions of pretrial release. As such, we ask that you not pass the amendments to K.S.A. 22-2802 contained in Sec. 2 of SB 254.

Since our state was founded in 1861, Section 9 of Kansas' Bill of Rights has plainly declared that "All persons shall be bailable by sufficient sureties except for capital offenses, where proof is evident or the presumption great." This provision means that all people in Kansas are entitled to have bail set for all offenses except for capital crimes. In contrast, Sec. 2 of SB 254 would appear to allow a judge to deny the grant or issuance of an appearance bond based upon a "rebuttable presumption that a person who has been determined to be an alien unlawfully present in the United States is at risk of flight." That new language would facially violate Section 9 of our Bill of Rights as set out by Kansas' framers, and should not be made into law.

Sec. 2 of SB 254 also appears redundant in nature. K.S.A. 22-2802(8) already directs a judge in determining what conditions of pretrial release will assure the appearance of the defendant and public safety to consider, amongst other things, "whether the defendant is lawfully present in the United States[.]" Kansas judges already are empowered to consider a person's lawful status in setting the conditions of pretrial release, which they can do under the Kansas Constitution. Sec. 2 of SB 254 then appears to just direct them consider those same facts, but in a facially unconstitutional way.

For those reasons, we ask that you not pass the new language included in Sec. 2 of SB 254. Thank you for your time.

Clayton J. Perkins  
BIDS Legislative Committee Co-Chair  
Chief Attorney, Capital Appellate Defender Office