

HOUSE BILL No. 2610

By Committee on Judiciary

Requested by Representative L. Williams

2-2

1 AN ACT concerning crimes, punishment and criminal procedure; relating
2 to issuance of a warrant or summons when there is probable cause to
3 believe that a defendant has committed a crime; limiting the use of a
4 summons instead of a warrant to misdemeanor crimes; requiring that
5 any bond set on a warrant issued after failure to appear in response to a
6 summons shall not allow release on the defendant's own recognizance;
7 amending K.S.A. 2025 Supp. 22-2302 and repealing the existing
8 section.
9

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

11 Section 1. K.S.A. 2025 Supp. 22-2302 is hereby amended to read as
12 follows: 22-2302. (a) (1) If the magistrate finds from the complaint, or
13 from an affidavit or affidavits filed with the complaint or from sworn
14 testimony, that there is probable cause to believe both that a crime has
15 been committed and that the defendant has committed—*it such crime*, a
16 warrant for the arrest of the defendant shall issue, except that a summons
17 instead of a warrant may be issued *in the case of a complaint alleging*
18 *commission of a misdemeanor* if:

19 (A) The prosecuting attorney so requests; or
20 (B) ~~in the case of a complaint alleging commission of a misdemeanor~~,
21 the magistrate determines that a summons should be issued.

22 (2) *A summons shall not be issued instead of a warrant in the case of*
23 *a complaint alleging commission of a felony.*

24 (3) More than one warrant or summons may issue on the same
25 complaint. If a defendant fails to appear in response to the summons, a
26 warrant shall issue *and any bond set on such warrant shall not allow*
27 *release on the defendant's own recognizance.*

28 (b) (1) Affidavits or sworn testimony in support of the probable cause
29 requirement of this section shall be made available to law enforcement
30 agencies prior to execution of the warrant or summons, but shall not be
31 open to the general public until the warrant or summons has been
32 executed. After the warrant or summons has been executed, such affidavits
33 or sworn testimony shall be made available to:

34 (A) The defendant or the defendant's counsel, when requested, for
35 such disposition as either may desire; and

1 (B) any person, when requested, in accordance with the requirements
2 of this subsection.

3 (2) Any person may request that affidavits or sworn testimony be
4 disclosed by filing such request with the clerk of the court. Upon entry of
5 appearance by an attorney on behalf of the defendant, or indication by the
6 defendant to the court that such defendant will represent the defendant's
7 self, the clerk of the court shall promptly notify the defendant or the
8 defendant's counsel, the prosecutor and the magistrate that such request
9 was filed. The prosecutor shall promptly notify any victim. For the
10 purposes of this subsection, victim shall include any victim of an alleged
11 crime that resulted in the issuance of the arrest warrant, or, if the victim is
12 deceased, the victim's family, as defined in K.S.A. 74-7335, and
13 amendments thereto.

14 (3) Within five business days after receiving notice of a request for
15 disclosure from the clerk of the court, the defendant or the defendant's
16 counsel and the prosecutor may submit to the magistrate, under seal,
17 either:

18 (A) Proposed redactions, if any, to the affidavits or sworn testimony
19 and the reasons supporting such proposed redactions; or

20 (B) a motion to seal the affidavits or sworn testimony and the reasons
21 supporting such proposed seal.

22 (4) The magistrate shall review the requested affidavits or sworn
23 testimony and any proposed redactions or motion to seal submitted by the
24 defendant, the defendant's counsel or the prosecutor. The magistrate shall
25 make appropriate redactions, or seal the affidavits or sworn testimony, as
26 necessary to prevent public disclosure of information that would:

27 (A) Jeopardize the physical, mental or emotional safety or well-being
28 of a victim, witness, confidential source or undercover agent, or cause the
29 destruction of evidence;

30 (B) reveal information obtained from a court-ordered wiretap or from
31 a search warrant for a tracking device that has not expired;

32 (C) interfere with any prospective law enforcement action, criminal
33 investigation or prosecution;

34 (D) reveal the identity of any confidential source or undercover agent;

35 (E) reveal confidential investigative techniques or procedures not
36 known to the general public;

37 (F) endanger the life or physical safety of any person;

38 (G) reveal the name, address, telephone number or any other
39 information-~~which~~ that specifically and individually identifies the victim
40 of any *of the sexual-offense offenses* described in article 35 of chapter 21
41 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of
42 chapter 21 of the Kansas Statutes Annotated, *and amendments thereto*, or
43 K.S.A. 21-6419 through 21-6422, and amendments thereto;

1 (H) reveal the name of any minor;

2 (I) reveal any date of birth, personal or business telephone number,
3 driver's license number, nondriver's identification number, social security
4 number, employee identification number, taxpayer identification number,
5 vehicle identification number or financial account information; or

6 (J) constitute a clearly unwarranted invasion of personal privacy. As
7 used in this subparagraph, "clearly unwarranted invasion of personal
8 privacy" means revealing information that would be highly offensive to a
9 reasonable person and is totally unrelated to the alleged crime that resulted
10 in the issuance of the arrest warrant, including information totally
11 unrelated to the alleged crime that may pose a risk to a person or property
12 and is not of legitimate concern to the public. The provisions of this
13 subparagraph shall only be used to redact and shall not be used to seal
14 affidavits or sworn testimony.

15 (5) Within five business days after receiving proposed redactions or a
16 motion to seal from the defendant, the defendant's counsel or the
17 prosecutor, or within 10 business days after receiving notice of a request
18 for disclosure, whichever is earlier, the magistrate shall either:

19 (A) Order disclosure of the affidavits or sworn testimony with
20 appropriate redactions, if any; or

21 (B) order the affidavits or sworn testimony sealed and not subject to
22 public disclosure.

23 (6) (A) If the magistrate orders disclosure of the affidavits or sworn
24 testimony with appropriate redactions, if any, to any person in accordance
25 with the requirements of this subsection, then such affidavits or sworn
26 testimony shall become part of the court record and shall be accessible to
27 the public.

28 (B) If the magistrate orders the affidavits or sworn testimony sealed
29 and not subject to public disclosure in accordance with the requirements of
30 this subsection, then such affidavits or sworn testimony shall become part
31 of the court record that is not accessible to the public.

32 (C) Any request for disclosure of affidavits or sworn testimony in
33 accordance with the requirements of this subsection shall become part of
34 the court record and shall be accessible to the public, regardless of whether
35 the magistrate orders disclosure with appropriate redactions, if any, or
36 sealing of the requested affidavit or sworn testimony.

37 Sec. 2. K.S.A. 2025 Supp. 22-2302 is hereby repealed.

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