

SENATE BILL No. 463

By Committee on Judiciary

2-3

1 AN ACT concerning civil actions; relating to actions in negligence;
2 prohibiting certain persons from recovering damages in such actions;
3 creating requirements for actions involving negligent security.
4

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

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

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

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

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

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

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

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

7 (C) hired a security contractor.

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

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

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

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

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

26 (ii) the owner or occupier;

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

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

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

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

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

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

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

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

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

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

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

9 (f) As used in this section:

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

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

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

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

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

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

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

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

37 (7) "wrongful conduct" means any:

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

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

43 (g) The provisions of this act are severable. If any portion of this act

1 is held by a court to be unconstitutional or invalid, or the application of
2 any portion of this act to any person or circumstance is held by a court to
3 be unconstitutional or invalid, the invalidity shall not affect other portions
4 of this act that can be given effect without the invalid portion or
5 application, and the applicability of such other portions of this act to any
6 person or circumstance remains valid and enforceable.

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