

SESSION OF 2026

SUPPLEMENTAL NOTE ON SENATE BILL NO. 463

As Amended by Senate Committee of the Whole

Brief*

SB 463, as amended, would prohibit certain persons from recovering damages in certain civil actions and would create requirements for actions involving negligent security.

The bill would prohibit persons who engaged or participated, or attempted to engage or participate, in wrongful conduct from bringing an action for negligence, or collecting damages for negligent conduct, related to such wrongful conduct.

For purposes of the bill, “wrongful conduct” would mean any:

- Violation of federal law that constitutes a crime, regardless of whether such violation results in an arrest, citation, indictment, or conviction;
- Violation of state law, an ordinance or resolution adopted by a political subdivision of the state that constitutes a felony or a class A or B misdemeanor, regardless of whether such violation results in an arrest, citation, indictment, or conviction; or
- Other conduct that constitutes an intentional or reckless tort.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <https://klrd.gov/>

Burden of Proof for Wrongful Conduct

The bill would place the burden of proof, by a preponderance of the evidence, that a person was engaging or participating, or attempting to engage or participate, in wrongful conduct, on the party against whom the negligence is alleged.

Negligent Security Claims

For purposes of the bill, “negligent security” would mean any claim against an owner or occupier, or security contractor, arising from an alleged failure to make or keep the premises and approaches safe, and seeks to recover any damages.

Duty Owed by Owner Occupiers

In an action for negligent security, the bill would provide that an owner or occupier has a duty to take reasonable care to protect an invitee or licensee from any type of wrongful conduct of a third person if the owner or occupier had:

- Actual knowledge of previous occurrences of substantially similar wrongful conduct on the premises within the immediately preceding year;
- Reason to believe such conduct was reasonably likely to occur again; and
- Understood that a specific and known physical condition of the premises has created a risk of such wrongful conduct on the premises that is substantially greater than the general risk of such conduct in the vicinity of the premises.

The bill would provide a presumption that such duty is met if the owner or occupier:

- Requested the assistance of law enforcement and followed their instructions;
- Followed the guidelines of a reputable party related to security and safety measures; or
- Hired a security contractor.

The bill would provide an owner or occupier does not owe a duty to protect an invitee or licensee from their own wrongful conduct or the wrongful conduct of a third person if the invitee or licensee is on the premises for the purpose of or in the course of engaging in wrongful conduct.

The bill would prohibit the following persons from maintaining an action for negligent security:

- A person who is committing criminal trespass;
- A person who is on the premises outside of posted business hours; or
- A person who is on the premises during a period of time that such premises is not open to the public.

Duty Owed by Security Contractor

If such owner or occupier has engaged a security contractor, the bill would specify such contractor would have the same duties as the owner or occupier.

For purposes of the bill, “security contractor” would mean any person that contracts with an owner or occupier to provide protective or security services upon any premises or any director, officer, employee, or agent of such person.

Apportionment of Fault

The bill would require the trier of fact, upon finding a party is liable in an action for negligent security, to apportion fault among:

- The party bringing the claim;
- The owner occupier;
- Any governmental agency or unit of government that failed to enforce law or maintain order;
- Any third person whose wrongful conduct or negligence contributed to the event giving rise to the cause of action; and
- Any other person deemed necessary.

The bill would require the court to set aside the verdict and order a retrial of liability and damages if the trier of fact fails to make such apportionment.

If the total percentage of fault apportioned to persons who engaged in wrongful conduct is less than the total percentage of fault apportioned to all other persons, the bill would require a presumption that such apportionment is unreasonable.

The bill would provide that such apportionment is subject to appeal *de novo*, and nothing in the bill could be construed to prevent a victim of a crime from receiving restitution.

Effective Date

The provisions of the bill would apply to any claim that is pending or filed on and after July 1, 2026.

Severability

This bill's provisions would be severable. If any provision of the bill, or its application to any person or circumstance, is found to be unconstitutional or invalid, the rest of the bill would continue to stand and would be enforceable so long as it could be enforced without the unconstitutional or invalid provisions.

Background

The bill was introduced by Senate Committee on Judiciary at the request of Senator Warren on behalf of Varidon Strategies.

Senate Committee on Judiciary

In the Senate Committee hearing, a representative of Alliance for Consumers Action Fund provided **proponent** testimony, who stated the bill offers a principled and practical solution to the threat of ideological lawfare.

Written-only proponent testimony was provided by a private citizen.

Opponent testimony was provided by representatives of Kansas Trial Lawyers Association and Shamberg, Johnson, & Bergman law firm. Opponents generally stated the bill creates ambiguity in the law and would take away the duty owed to invitees.

Written-only opponent testimony was provided by representatives of ACLU of Kansas; Protecting KS Children from Sexual Predators; and Slape & Howard.

No other testimony was provided.

The Senate Committee amended the bill to change the definition of “wrongful conduct” to include a violation of federal law that constitutes a crime, or state law, or ordinance or resolution adopted by a political subdivision of the state that constitutes a felony or a class A or B misdemeanor.

Senate Committee of the Whole

The Senate Committee of the Whole amended the bill to:

- Clarify that noneconomic damages would be prohibited from being awarded in an action for negligence arising from an automobile accident to a person who was an unauthorized alien at the time of such accident [*Note:* the Senate Committee of the Whole subsequently amended the bill to remove these provisions.]; and
- Remove provisions that would have:
 - Prohibited the awarding of noneconomic damages in an action for negligence arising from an automobile accident to a person who was an unauthorized alien at the time of such accident;
 - Required the party in such an action for negligence arising from an automobile accident prove such party was a citizen or lawful permanent resident of the United States;
 - Required such party seeking noneconomic damages to have the burden of proof by a preponderance of the evidence; and
 - Defined “unauthorized alien” for purposes of the bill.

Fiscal Information

According to the fiscal note prepared by the Division of Budget on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill could increase expenditures for the Judicial Branch and judge and staff time, but a precise fiscal effect cannot be estimated.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2027 Governor's Budget Report*.

Judiciary; civil action; negligence; damages; negligent security