

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2386

As Amended by House Committee on
Agriculture and Natural Resources Budget

Brief*

HB 2386, as amended, would prohibit government officials or employees of any state agency, county, or city acting within the scope of such employee's duties from entering or remaining on private property, and conducting aerial surveillance on the property, unless:

1. The entry is authorized by a lawfully issued search warrant, court order, subpoena, administrative warrant, or the *U.S. Constitution*;
2. The owner of the property has given written consent; or
3. There are exigent circumstances requiring entry on such property.

These provisions would not apply to a law enforcement officer during the course of the officer's duty or to the officially designated protection and advocacy system for the State, as required by federal law.

Background

The bill was introduced by the House Committee on Agriculture and Natural Resources Budget at the request of Representative Corbet.

*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 <http://www.kslegislature.org>

***House Committee on Agriculture and Natural Resources
Budget***

In the House Committee hearing on February 20, 2023, **proponent** testimony was provided by a representative of the Kansas Justice Institute, stating the bill would help protect Kansans from governmental intrusions.

Opponent testimony was provided by representatives of the Department of Agriculture, Department of Transportation, Kansas Commission on Veterans Affairs Office, and the Disability Rights Center of Kansas. Opponents generally stated that requirements under the bill could run contrary to existing statutes authorizing permission on private property to conduct investigations, inspections, surveying, and other tasks.

Written-only opponent testimony was provided by the Office of the State Long-Term Care Ombudsman, Department of Children and Families, Corporation Commission, Department for Aging and Disability Services, Wichita Animal Action League, and a private citizen.

No other testimony was provided.

The House Committee amended the bill to:

- Add language specifying that government officials or employees effected by the bill would only be effected if they were acting within the scope of their employment;
- Add language disallowing aerial surveillance on private property unless certain criteria are met; and
- Add administrative warrants, exigent circumstances, and the officially designated protection and advocacy system for the state to the list of provided exceptions.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Agriculture indicates enactment of the bill would increase expenditures by \$167,000, all from the State General Fund, and require an additional 2.00 FTE positions.

The Department of Wildlife and Parks indicates costs to implement the bill would total \$77,000 in FY 2023 to develop and maintain a landowner permission system and \$322,874 for FY 2024 to administer the database and oversee landowner permissions, and require an additional 6.00 FTE positions.

The Kansas Corporation Commission indicates it is unable to estimate the bill's fiscal effect; but the bill would delay investigations resulting in higher investigative costs, more expensive remediation, additional staff time, and possibly require more administrative positions.

The Kansas Association of Counties, League of Municipalities and the Department of Administration indicate there would be no fiscal effect associated with the bill.

Private property; property rights