

SESSION OF 2021

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2025**

As Further Amended by House Committee on  
Federal and State Affairs

**Brief\***

HB 2025, as amended, would create law concerning the authority of Kansas Department of Wildlife, Parks and Tourism (KDWPT) to conduct surveillance on private property.

The bill would prohibit KDWPT employees who are authorized to enforce the laws of the State from conducting surveillance on private property unless authorized pursuant to a search warrant under continuing law, the U.S. Constitution, or an exception listed by the bill.

***Exceptions***

The bill would list the following exceptions to the search warrant requirement: [*Note:* The following terms are legal terms defined in case law.]

- Exigent circumstances;
- Consent searches; or
- The Plain View Doctrine.

***Definitions***

The bill would define the following terms:

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\*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>

- “Surveillance” means either physical or electronic presence on private property, including the use or installation of a tracking device, to monitor activity or collect information related to the enforcement of the laws of the State, including the use or installation of a tracking device; and
- “Tracking device” has the same definition as continuing law, which defines the term to mean an electronic or mechanical device that permits a person to remotely determine or track the position or movement of a person or object; it includes, but is not limited to, a device that stores geographic data for subsequent access or analysis and that allows for real-time monitoring of movement.

## **Background**

The bill was prefiled for introduction on December 31, 2020, by Representative Corbet.

### ***House Committee on Federal and State Affairs***

In the House Committee hearing on February 4, 2021, Representative Corbet, Senator Tyson, and a representative of the Kansas Justice Institute testified as **proponents** of the bill, stating the bill would help protect property owners’ rights. Written-only **proponent** testimony was submitted by Douglas County Public Works, American Civil Liberties Union of Kansas, and Kansas Farm Bureau.

Representatives of the Douglas County Public Works, Kansas Association of Chiefs of Police, KDWPT, Kansas Peace Officers’ Association, Kansas Sheriffs Association, and League of Kansas Municipalities presented **opponent** testimony, stating their concern with the effect the bill would have on enforcement investigations and county weed operations.

Written-only **opponent** testimony was submitted by representatives of the Kansas Bureau of Investigation, Kansas State Lodge Fraternal Order of Police, and the Lenexa Police Department.

Representatives of the Kansas Association of Counties and Kansas Livestock Association submitted neutral testimony. The representative of the Kansas Association of Counties proposed an amendment to remove county weed supervisors from the bill. Written-only neutral testimony was submitted by the Kansas Department of Agriculture.

On February 26, 2021, the House Committee amended the bill to remove the county weed supervisor and clarify exceptions to the warrant requirement.

#### ***House Committee of the Whole***

On March 15, 2021, the bill was withdrawn from the Calendar and re-referred to the House Committee on Federal and State Affairs.

#### ***House Committee on Federal and State Affairs***

On March 24, 2021, the House Committee further amended the bill by removing provisions related to surveillance by law enforcement agencies other than KDWPT.

#### **Fiscal Information**

According to the fiscal note prepared by the Division of Budget on the bill as introduced, KDWPT, Kansas Highway Patrol, and the League of Kansas Municipalities state enactment of the bill would have no fiscal effect. The Kansas Association of Counties states it does not know whether surveillance on private property is a widespread issue and therefore the fiscal effect is unknown.

Privacy rights; access and surveillance by KDWPT officials; real property