

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE  
BILL NO. 2447**

As Recommended by House Committee on  
Judiciary

**Brief\***

Sub. for HB 2447 would amend the Kansas Code of Criminal Procedure to allow, at a preliminary examination, the defendant and the state to present witness testimony through a two-way electronic audio-video communication device.

**Background**

As introduced, HB 2447 would have terminated certain transfers from the Securities Act Fee Fund. [*Note*: SB 392 contains identical provisions as HB 2447, as introduced.]

On March 15, 2022, the House Committee on Judiciary recommended a substitute bill for HB 2447 containing only a provision from HB 2538.

***HB 2538 (Preliminary Examinations)***

HB 2538 was introduced by the House Committee on Judiciary at the request of the Kansas County and District Attorneys Association (KCDAA). As introduced, the bill would have amended the statute governing preliminary examinations (also called preliminary hearings) to change the timing requirement, make hearsay evidence admissible, and allow witness testimony through two-way electronic audio-video communication.

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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>

## *House Committee on Judiciary*

In the House Committee hearing on February 3, 2022, a representative of the KCDAA testified as a **proponent**, stating the bill would make preliminary hearings more efficient. The Pottawatomie County Attorney and a representative of the Kansas Coalition Against Sexual and Domestic Violence submitted written-only proponent testimony.

Representatives of the ACLU of Kansas and the Kansas Association of Criminal Defense Lawyers testified as **opponents**, expressing concerns about possible constitutional issues and negative impacts the bill's provisions could have on defendants, prosecutors, victims, witnesses, and other participants in the criminal justice system.

On March 15, 2022, the House Committee recommended a substitute bill for HB 2447 containing only the provision from HB 2538 allowing witness testimony through two-way electronic audio-video communication.

## **Fiscal Information**

### ***HB 2538***

According to the fiscal note prepared by the Division of the Budget on HB 2538, the Office of Judicial Administration (Office) states enactment of the bill would have a negligible fiscal effect on Judicial Branch operations. The Office states the use of two-way electronic audio-video communication could result in some savings to the Judicial Branch and county governments, but the Office cannot estimate what the savings would be. Any fiscal effect associated with the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Criminal procedure; preliminary examination; two-way electronic audio-video communication