

## Kansas HB 2444: Crisis and Mitigation in Rural Defense

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### Overview

The reality on the ground for some rural practitioners is shifting rapidly under recently enacted Kansas House Bill 2444, effective July 1, 2026.<sup>1</sup> For rural Kansas attorneys who work in the criminal defense arena and don't utilize available resources and outlets, the new law could create an exponential increase in workload without a corresponding increase in pay, and pose a risk to the court appointment system.

### Analysis of HB 2444 & Section 4

The broad intent of HB 2444 is to clamp down on pre-trial release and tighten sentencing guidelines for repeat offenders.<sup>2</sup> In other words, public safety and accountability are the purposes of the law by significantly limiting the number of defendants released on low-dollar or own-recognizance bonds. Those goals are laudable. It seeks to achieve these goals through three primary pillars:

- **Elimination of "double" jail credit:** If consecutive sentences are imposed, pre-sentence jail custody can only be credited to a single case.
- **Presumptive imprisonment:** It creates a special sentencing rule mandating automatic presumptive imprisonment for individuals with criminal history scores A through E who commit a new felony while on probation, parole, or post-release supervision for a prior non-drug felony.
- **Mandatory secured minimum bonds (Section 4):** This is the core operational driver for defense counsel. For defendants who commit a new felony while under active supervision (probation, parole, post-release) or while out on bond for a prior felony, the statute strips away the standard judicial discretion to issue an own-recognizance (OR) or low-dollar bond. Instead, Section 4 mandates secured minimum appearance bonds (ranging from \$50,000 to \$250,000 depending on the felony level).

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<sup>1</sup> The bill specifies that its statutory provisions (including computations of jail credit and sentences) apply to sentences pronounced before, on, or after July 1, 2026. Thus, while the law officially goes into effect on July 1, 2026, the courts and the Department of Corrections are mandated to apply these new math rules to the calculation of *any* sentence being served or computed. If an individual is being sentenced or has their credit recalculated after the effective date, they cannot receive "double" jail credit across consecutive cases for pre-sentence time spent in custody, even if the underlying offenses occurred or the cases were filed prior to July 1. Essentially, the legislature wrote the statute to ensure that once July 1 hits, the new guidelines immediately govern the administration of all relevant cases moving through the system, preventing any "grandfathering in" of older offenses regarding the calculation of consecutive time served.

<sup>2</sup> In recent years, other states have enacted similar legislation including Delaware, Georgia, Iowa, Texas and West Virginia. The American Legislative Exchange Council has drafted model legislation that has heavily influenced the state legislation.



The court can deviate from these strict floors, but only if it holds a hearing and makes specific on-the-record factual findings that the defendant is neither a flight risk nor a danger to public safety.

### **Expectations of Appointed Counsel & The "Evidentiary Bond Hearing" Mandate**

Because these statutory bond amounts are likely to be significant hurdles for indigent clients, the court cannot bypass them casually. To overcome the new statutory presumption, appointed counsel must actively move for a deviation.

Consequently, in areas reliant on Board of Indigents' Defense Services (BIDS) panels rather than a brick-and-mortar Public Defender's office, panel attorneys face an immediate structural shift:

- **Frequent evidentiary hearings:**<sup>3</sup> Practitioners should not expect standard first-appearance bond arguments to be sufficient. Overcoming a \$50,000 to \$250,000 statutory minimum requires an evidentiary presentation - introducing testimony, community ties, supervision compliance records, and mitigation.
- **Front-loaded labor:** This forces intensive, localized legal work to occur within the first 48 to 72 hours of appointment, radically compressing your calendar.

### **The Funding Mechanism and the BIDS Pay Rate Problem**

The funding for the implementation of HB 2444 comes out of the State General Fund. However, the fiscal notes attached to the legislation largely focus on the downstream institutional costs rather than panel attorney compensation. The Kansas Sentencing Commission projected that the bill would require an increase of 106 adult prison beds by the end of FY 2027 and up to 225 beds by FY 2036.

While BIDS continually lobbies the legislature for general increases to the panel rate to keep pace with inflation and overhead, there is no correlative funding mechanism tucked into HB 2444 to pay attorneys for this mandated, front-loaded workload. The State General Fund dollars are being allocated to handle the physical housing of the expanded jail and prison populations, not to increase the hourly rate of court-appointed private counsel. These attorneys are being asked to do significantly increased heavy-lifting at the same discounted rate.

### **The Growing Strain on Rural Indigent Defense Systems**

HB 2444 raises important questions about the long-term capacity of rural Kansas judicial districts to provide timely and effective representation to indigent defendants. While the statute does not alter the constitutional right to counsel, it may increase the operational pressures on the attorneys and court systems responsible for delivering

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<sup>3</sup> Not every covered case will require a substantial evidentiary hearing. Some judges may simply leave the statutory bond in place. Others may hold relatively brief hearings. Also, some defendants may not request modification.

that representation.<sup>4</sup> This right attaches at the critical stages of a criminal prosecution - including initial appearances and bail-setting hearings where a defendant's liberty is immediately at stake.

The implementation of HB 2444 may heighten Sixth Amendment concerns in some rural jurisdictions because of how the law interacts with the existing economics of rural legal practice.

- **The mandate of timely, effective appointment:** The Sixth Amendment requires that counsel be appointed within a reasonable time after formal charges are filed so that the accused can effectively be represented at crucial hearings. Under HB 2444, because significant secured bonds are now the statutory floor,<sup>5</sup> an indigent defendant faces an immediate, high-stakes presumption of incarceration. Overcoming that presumption requires a robust evidentiary presentation within the first 48 to 72 hours of arrest.
- **The reality of market-driven attrition:** In rural Kansas, where there are no brick-and-mortar Public Defender offices, the courts rely entirely on private "panel" attorneys who accept court appointments out of civic duty or to supplement their private practices. HB 2444 severely compresses the preparation window, requiring immediate, heavy upfront hours from court-appointed attorneys at the same stagnant BIDS hourly rate.
- **The flashpoint of the crisis:** Economics indicates that when the operational cost (in lost private billable hours) of remaining on the appointment list becomes too high, rural attorneys will withdraw from the panel. Because the remaining rural bar is so small, a few withdrawals would quickly trigger a domino effect, burning out the remaining attorneys until the panel collapses entirely.

If a rural judicial district experiences significant attrition among panel attorneys, courts may face increasing difficulty in providing counsel quickly enough to accommodate the accelerated demands that HB 2444 creates. To be sure, Kansas courts retain several options, including seeking appointments from neighboring jurisdictions or utilizing other available defense resources. Even so, persistent shortages could create delays that place additional pressure on courts attempting to satisfy both statutory requirements and constitutional obligations.

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<sup>4</sup> The Sixth Amendment to the U.S. Constitution guarantees a criminal defendant the right to the effective assistance of counsel, which includes the right to have an attorney appointed at public expense if the defendant cannot afford one. See, e.g., *Gideon v. Wainwright*, 372 U.S. 335 (1963); *Rothgery v. Gillespie County*, 554 U.S. 191 (2008).

<sup>5</sup> Under HB 2444, the baseline or minimum secured appearance bond amounts are tiered based on the severity level of the new felony charge. The statutory floor is a \$50,000 if the most serious new charge is a severity level 7 through 10 felony or a drug severity level 3 or 4 felony. The baseline amounts scale upward significantly for higher-level offenses, reaching as high as a \$750,000 minimum cash bond for defendants with prior convictions for sexually violent crimes who face new serious sexual offense charges. These baseline floors specifically apply to defendants whose criminal history is classified as Category E or higher and who commit a new felony while already under supervision (such as probation, community corrections, parole, a suspended sentence, or post release supervision) for a prior felony. Because HB 2444 targets individuals facing serious charges while already under supervision, an indigent defendant who cannot clear the high financial hurdle of either \$750,000 in cash or a non-refundable \$75,000 fee (paid to a bail bondsman) will remain incarcerated through the duration of their pre-trial period.

The risk of operational strain unfolds directly from the economics of rural practice. Because there is an existing shortage of rural attorneys, private billable work is abundant. A private practitioner can easily command standard market rates for civil, agricultural, corporate, or retained criminal work. When BIDS panel work required a predictable amount of time per case file, some rural attorneys maintained a sense of civic or professional duty to stay on the list. However, when a statute transforms every standard felony first-appearance into a high-stakes, time-consuming evidentiary bond litigation process, the "opportunity cost" of keeping any particular attorney's name on that list spikes dramatically. When a few local attorneys withdraw from the appointment list due to the increased work-to-pay imbalance, the burden doesn't disappear - it gets concentrated onto the remaining panel members. This causes the remaining attorneys to burn out and withdraw as well.

If private attorneys continue to drop off appointment lists in rural jurisdictions where no Public Defender office exists, the courts may eventually face difficulty appointing counsel within constitutional timelines. This statutory change adds a huge layer of procedural weight to an infrastructure that was already operating on a knife's edge.

**Observation:** None of this suggests that HB 2444 is unconstitutional on its face. Rather, the concern is that the statute imposes additional front-loaded obligations on a rural defense infrastructure that is already thinly staffed in many parts of Kansas. Whether the system can absorb those obligations without additional compensation, recruitment, or support remains an open question.

### **Mitigating the Crisis: Leveraging KAMS and Ag-Kansitions as an Operational Release Valve**

Because the vast majority of rural BIDS panel attorneys rely on their private civil, corporate, and agricultural law practices to keep their lights on, the time crunch imposed by HB 2444 directly threatens their primary revenue streams. To prevent complete burnout and withdrawal from court appointment lists, rural practitioners must find ways to optimize and offload the time-intensive groundwork of their civil practices.

If the legislature is unlikely to increase compensation for appointed counsel in the near future, practitioners may need to look inward and find efficiencies elsewhere in their practices. This is exactly where the Kansas Agricultural Mediation Service (KAMS) and Ag-Kansitions (both based at Kansas State University) become vital business-preservation tools.

**Offloading civil Ag disputes to KAMS.** When a rural attorney's civil client gets locked into an agricultural credit dispute, USDA adverse decision, or a neighborly boundary/fencing conflict, it can consume dozens of billable hours in discovery, correspondence, and file preparation.

- **Structural efficiency:** Instead of billing hundreds of hours on standard agricultural disputes, the attorney can direct clients to KAMS for structured mediation.
- **The attorney's role:** KAMS handles the logistical heavy lifting, financial counseling, and mediation coordination. The attorney can step back into an advisory, lower-intensity review role. This preserves the client relationship and ensures a legally sound resolution while freeing up the 48-to-72-hour windows required to handle the emergency evidentiary bond hearings mandated by HB 2444.



## Streamlining Generational Transfers via Ag-Kansitions

Farm and ranch succession planning is a cornerstone of a successful rural civil practice, but it requires immense data gathering, financial analysis, and multi-generational family facilitation.

- **Outsourcing the Groundwork:** By partnering with Ag-Kansitions, rural attorneys can have the program's farm transition specialists facilitate the initial family meetings, structure basic farm transition strategies, and help beginning farmers evaluate land access options.
- **Maximizing high-value work:** Rather than spending hours acting as a family counselor or accountant trying to untangle asset distributions, the attorney receives a client who has a clear, structured framework from Ag-Kansitions. The attorney can then focus exclusively on high-value, efficient legal execution - such as drafting custom operating agreements, forming trusts, and finalizing deeds.

Rural attorneys cannot expand the number of hours in a day, but they can change how those hours are allocated. By utilizing KAMS and Ag-Kansitions to handle the administrative and facilitation phases of their civil practices, practitioners can insulate their most profitable private business while carving out the intensive operational bandwidth required to navigate the new realities of HB 2444.

## Conclusion

Ultimately, Kansas House Bill 2444 could push the rural defense infrastructure toward a breaking point. While proponents intended to enhance public safety, the law could force private panel attorneys to absorb intensive, uncompensated evidentiary work. This collision between criminal mandates and firm survival highlights why high-level agricultural law education and operational support are structural lifelines, not just academic exercises.

However, equipping practitioners with blueprints for high-value civil work – such as advanced generational wealth transfers, entity taxation, and custom operating agreements - maximizes profitability in fewer hours, creating the financial cushion needed to absorb emergency public defense cases. Utilizing the Kansas KAMS to handle standard ag fencing, boundary, or credit disputes, for example, and Ag-Kansitions for farm estate and succession planning can help prevent administrative groundwork from swallowing up dozens of billable hours, keeping local attorneys anchored and available. In the end, while state recruitment programs struggle to fill "legal deserts," true retention is driven by day-to-day practice economics. Delivering sharp, timely educational and research sources gives the existing bar the immediate tools to survive conflicting state mandates. Rural attorneys must take mitigation into their own hands and leverage all of these specialized resources to insulate their firms against the harsh realities of HB 2444.

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