

SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2218

As Amended by Senate Committee on Judiciary

Brief*

HB 2218 would amend statutes concerning the crime of driving under the influence of alcohol or drugs (DUI). First, the bill would amend the law governing when a law enforcement officer is required to request a person submit to alcohol or drug testing. Specifically, the bill would add to language concerning an officer's reasonable grounds to believe the person was DUI to require that the officer have such a belief "at the time of the request." Further, the bill would require an officer to request alcohol or drug testing when the officer has such a belief and the person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution, or city ordinance. Testing already is required if the person is arrested or taken into custody for a DUI offense.

The bill also would amend the definition of the crime of aggravated battery to include DUI:

- When great bodily harm to another person or disfigurement of another person results from such act, which would be a severity level 5, person felony; and
- When bodily harm to another person results from such act under circumstances whereby great bodily harm, disfigurement, or death can result from such act, which would be a severity level 8, person felony.

*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>

For the purpose of determining whether a new DUI conviction is a first, second, third, or subsequent conviction, which impacts the penalty imposed, aggravated battery while DUI would be considered a prior DUI conviction. The bill also would add clarifying language concerning DUI offenses committed by persons under the age of 21 and replace “drive” with “operate.”

Background

In the House Committee on Corrections and Juvenile Justice, representatives of the Kansas Bureau of Investigation, Kansas County and District Attorneys Association, Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs’ Association offered testimony in support of the bill. No others offered testimony.

The same conferees offered testimony in the Senate Committee on Judiciary.

The Senate Committee agreed to add the contents of HB 2043, concerning aggravated battery while DUI, with an amendment that would add this crime to the list of crimes considered prior DUI convictions.

HB 2043

In the House Committee on Corrections and Juvenile Justice, representatives of local district attorney’s offices appeared in support of HB 2043. A local defense attorney appeared as an opponent.

The House Committee amended HB 2043 to remove language that would make these new offenses strict liability crimes requiring no culpable mental state and to clarify that harm must be the result of driving under the influence of alcohol or drugs.

In the Senate Committee on Judiciary, a representative of the Kansas County and District Attorneys Association appeared in support of the bill. No others offered testimony.

The fiscal note prepared by the Division of the Budget for HB 2218, as introduced, indicates passage would require revision of the implied consent and hearing order forms. The Department of Revenue estimates revising, printing, and mailing the forms would cost \$20,000, which would be paid from the agency's Vehicle Operating Fund. The fiscal note also states any effect on state and local law enforcement likely would be accommodated within existing resources.

The revised fiscal note prepared by the Division of the Budget for HB 2043, as introduced, indicates passage of the bill would increase caseloads, which likely could be accommodated within existing resources. The Kansas Sentencing Commission indicates passage would result in one to three additional prison beds in FY 2014, two to six additional prison beds in FY 2015, and three to nine additional prison beds by FY 2023.

Any fiscal effect is not included in *The FY 2014 Governor's Budget Report*.