

SESSION OF 2015

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR HOUSE
BILL NO. 2159**

As Recommended by House Committee on
Judiciary

Brief*

Sub. for HB 2159 would amend provisions related to expungement of driving under the influence (DUI) and test refusal offenses. Specifically, the bill would amend the statutes governing expungement of DUIs and city ordinance violations that also would constitute a DUI to change to five the number of years that must have elapsed since the person satisfied the sentence or the terms of a diversion agreement before petitioning for expungement of a DUI. Current law requires ten years for a municipal violation and seven years for a conviction under state law. The bill also would make test refusal subject to this five year requirement.

The remaining amendments are technical.

Background

In the House Judiciary Committee, Representative Thimesch and the Kingman County Attorney offered testimony in support of the bill. Representatives of Mothers Against Drunk Driving and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association appeared as opponents of the bill.

The House Committee adopted a substitute bill, which would change to five the number of years that must have elapsed since the person satisfied the sentence or the terms

*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>

of a diversion agreement before petitioning for expungement of a DUI. (Current law requires ten years for a municipal violation and seven for a conviction under state law, and the bill would have set the number for both at seven.) The substitute bill also removes amendments proposed by the bill, as introduced, that would have removed satisfaction of the terms of a diversion agreement from language allowing for expungement after satisfying a sentence or diversion agreement, which would have allowed for expungement of a diversion after three years; clarified the expungement provisions only would apply to felony DUI violations; and removed DUI and test refusal diversion agreements from the definition of “conviction” in the statute defining “habitual violator,” which is based on three or more convictions of certain crimes.

The fiscal note prepared by the Division of the Budget indicates the bill, as introduced, would have caused Kansas to be out of compliance with a federal law that requires a state to look back a minimum of five years for repeat DUI offenders, which would have required a transfer of approximately \$8.2 million from federal highway construction funds to federal safety funds.

The Office of Judicial Administration indicates the bill, as introduced, could result in additional motions and appellate cases; however, the precise fiscal effect cannot be determined. The League of Municipalities notes there also may be an effect on cities, however, it is difficult to estimate how the bill, as introduced, would affect local government finances.