

SESSION OF 2015

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

As Amended by Senate 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 test refusal and city ordinance violations that also would constitute a DUI or test refusal 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 or was discharged from probation, parole, postrelease supervision, conditional release, or a suspended sentence before petitioning for expungement of a first DUI conviction. A person could petition for expungement of a second or subsequent conviction of DUI or test refusal after ten years. Current law requires the elapse of ten years for a municipal DUI violation and seven years for a DUI conviction under state law. For test refusal, current law requires the elapse of three years for a municipal violation and seven years for a conviction under state law.

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

*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 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 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, as introduced, 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 would apply only 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.

Representative Thimesch appeared in support of the bill in the Senate Judiciary Committee. Representatives of Mothers Against Drunk Driving and the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association again appeared as opponents of the bill.

The Senate Committee amended the bill to allow a person to petition for expungement after five years on a first conviction of DUI or criminal test refusal and after ten years on a second or subsequent conviction of DUI or test refusal.

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 Kansas 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.