

SESSION OF 2016

SUPPLEMENTAL NOTE ON SENATE BILL NO. 133

As Amended by House Committee on Judiciary

Brief*

SB 133 would amend the crime of possessing, consuming, obtaining, purchasing, or attempting to obtain or purchase alcohol by a person under 21 to include immunity from prosecution if a person and, if applicable, one or two other persons acting in concert with such person, if the person initiated contact with law enforcement or emergency medical services; requested medical assistance on their own behalf because such person reasonably believed he or she was in need of medical assistance; and cooperated with emergency medical services personnel and law enforcement officers in providing medical assistance.

The bill also would extend immunity from prosecution when a person and, if applicable, one or two other persons acting in concert with such person, initiated contact with law enforcement or emergency medical services or was one of one or two other persons who acted in concert with such person; requested medical assistance for another person who reasonably appeared to be in need of medical assistance; provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services; remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and cooperated with emergency medical services personnel and law enforcement officers in providing medical assistance. Immunity also would be extended to the person who reasonably appeared to be in need of medical assistance but

*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>

did not initiate contact with law enforcement or emergency medical services if the person cooperated with emergency medical services personnel and law enforcement in providing medical assistance.

The bill would state a person shall not be allowed to initiate or maintain an action against a law enforcement officer or such officer's employer based on the officer's compliance or failure to comply with these new provisions.

Background

In the Senate Committee on Judiciary, Senator Hawk, Representative Phillips, the student body presidents of Kansas State University and the University of Kansas, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association provided testimony in support of the bill. A representative of the Kansas EMS Association offered written neutral testimony. There were no opponents.

The Senate Committee amended the bill to: add one or two other persons acting in concert with the person; clarify that the person must have initiated contact with law enforcement or emergency medical services to have immunity; clarify in paragraph (A) that the person requested medical assistance on his or her own behalf because the person reasonably believed he or she was in need of medical assistance; clarify in paragraph (B) that it would apply to a person who was one of one or two other persons who acted in concert with such other person and requested medical assistance for another person; require the other persons acting in concert with the person who contacted law enforcement or emergency medical services to provide their names when requested; remove language specifying cooperation only "at the scene"; change "medical assistance personnel" to "medical services personnel"; add a paragraph to extend immunity to a person who reasonably appeared to be in need of medical assistance due to alcohol consumption but did not initiate contact with law enforcement or

emergency medical services; and delete language that would have allowed the court to order a person with immunity to perform no more than 40 hours of community service.

The 2015 House Committee on Judiciary held a hearing on HB 2198, which had substantially similar contents to those of SB 133. At the House Committee hearing, Representative Phillips, the student body presidents of Kansas State University and the University of Kansas, and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Associations appeared in support of the bill. There were no opponents. The 2015 House Committee amended HB 2198 and recommended it be passed as amended. The bill subsequently was stricken from the House Calendar.

The 2016 House Committee on Judiciary amended SB 133 to specify that the cooperation required for immunity is to be related to providing medical assistance. The House Committee also adopted a technical amendment updating statutory references.

The 2015 fiscal note prepared by the Division of the Budget indicated SB 133, as introduced, could reduce the amount of fine revenue credited to the Board of Emergency Medical Services by providing immunity to underage persons who otherwise would have paid a fine. The precise fiscal impact was unknown, however. The Board noted local governments that own or operate ambulance services could incur cost increases if the bill results in increased usage of those services.

The League of Municipalities concurred that there could be an effect for local governments but was unable to estimate the specific effect on counties.

The Office of Judicial Administration indicated there would be no fiscal effect on district or appellate courts.

Any fiscal effect associated with SB 133 was not reflected in *The FY 2016 Governor's Budget Report*.