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To: Hon. Fred Patton, Chair, House Judiciary
From: Todd Thompson, Leavenworth County Attorney and KCDAAs past President
Date: January 25, 2021

Re: Testimony in Support of HB 2093

Hon. Chairman Patton and members of the House Judiciary Committee:

Thank you for the opportunity to address HB 2093, regarding amendments to K.S.A. 2020 Supp. 8-1568 and 21-5804. We support these amendments as they address issues we see with stolen vehicles and cases dealing with fleeing and eluding our law enforcement officers.

The proposed language for K.S.A. 8-1568 corrects an issue that we think was intended with charging subsequent flee and eluding cases. Currently, when charging a violation of subsection (a), it is unclear whether a prior conviction under subsection (b) should be considered. Take for example, a defendant who has a prior conviction of flee and elude under subsection (b), a severity level 9 felony. If this defendant is later convicted under the same flee and elude statute, but is charged and convicted with a violation of subsection (a), the current language leaves open the possibility that this conviction be a "first conviction." A first conviction is a class B nonperson misdemeanor whereas a second conviction is a class A nonperson misdemeanor. This is a significant difference, especially considering incidents giving rise to subsection (b) convictions are severe and can and do result in deaths.

The issue of safety plays an even more important concern when discussing the need to increase the penalty when a vehicle evading law enforcement comes into on-coming traffic or intersection causing a vehicle to perform an evasive maneuver. The biggest concern for law enforcement when trying to apprehend a suspect who is attempting to elude them is not just their safety, but the safety of everyone on the roadway. We have seen multiple injuries and death in cases of vehicles eluding law enforcement. We need more serious consequences when this occurs in order to be commensurate with the harm it causes.

The new proposed language in 21-5804 addresses a common issue where defendants can escape culpability by claiming they were not aware a vehicle was stolen. When this occurs in the context of flee and elude, the new language would allow such conduct to serve as prima facie evidence that the defendant intended to deprive the owner of their motor vehicle. More often than not, a vehicle that is attempting to elude law enforcement is stolen, but the suspects don't take responsibility for stealing it. This corrects this issue and we hope will deter this crime and make our roadways safer.

Thank you for your time and consideration, and I look forward to the opportunity to show my support of these proposed changes in person.

Todd Thompson
Leavenworth County Attorney