



State of Kansas

**Supreme Court of Kansas
Office of Special Counsel**

**Kansas Judicial Center
301 SW 10th
Topeka, Kansas 66612-1507**

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February 11, 2021

House Transportation

Neutral Testimony

HB 2193—making changes to suspended drivers' license requirements

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Chairman Proehl and members of committee, thank you for the opportunity to appear today to testify concerning HB 2193. The bill would alter the method by which the drivers' license reinstatement fee is assessed against those drivers who fail to comply with a traffic citation. The Judicial Branch anticipates that this change would reduce the total number of reinstatement fees that are assessed and significantly impact our budget.

Currently, the judicial branch assesses and collects the reinstatement fee imposed under K.S.A. 8-2110 and remits it to the state treasurer for deposit into the treasury. Once deposited, the state treasurer credits the first \$15.00 from each reinstatement fee, plus 41.17% of the remaining balance, into the judicial branch nonjudicial salary adjustment fund. The Judicial Branch Nonjudicial Salary Adjustment fund is used to compensate Judicial Branch employees, but it cannot be used to compensate judges or Supreme Court justices. In fiscal year 2019, \$1,201,649 in drivers' license reinstatement fees were deposited in this salary adjustment fund. Additionally, we estimate that \$502,471 in driver's license reinstatement fee surcharge revenue was deposited in the Judicial Branch Docket Fee Fund in fiscal year 2019. By changing the driver's license reinstatement fee from \$100 per charge to \$100 per case, we estimate that revenue would decrease by approximately 44%, which equates to \$749,813, each fiscal year.

Because the Judicial Branch anticipates that this measure would reduce the total number of reinstatement fees assessed in Kansas, it consequently anticipates a decrease in the amount of funding available in the Judicial Branch Nonjudicial Salary Adjustment Fund: a decrease that—if not replaced with a separate, equal amount of funding—would impact the Judicial Branch's ability to compensate its employees and threaten its ability to remain open to the public. While

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the judicial branch has no position on the policy underlying the bill, it draws the committee's attention to the fiscal impact this measure could have on the branch's operations.

HB 2193 also raises some procedural questions that may impact Judicial Branch expenditures and revenues. The bill strikes existing language that describes how reinstatement fees should be assessed for suspensions that occurred prior to July 1, 2021 (the anticipated enactment date for the legislation). It is unclear what legal affect the removal of this language may have on cases in which a suspension was imposed before that date. It may be interpreted to eliminate the court's ability to assess a reinstatement fee for those cases, or may be interpreted to require application of the new formula for assessing a single reinstatement fee for each case, regardless of when the suspension occurred. Both scenarios would result in substantial fee loss and administrative complications for the court system.

The Judicial Branch contracts with debt collection vendors to assist in collecting fees assessed on behalf of the state. The bill, as offered, could impact those fees already assessed in a case. For example, a case involving a fee that has already been assessed and is currently being collected by a vendor may have to be reexamined by a court for a determination of what can be collected or, possibly, remitted to the defendant. This would require a substantial amount of time spent by trial court clerks and judges in recalculating the amounts owed in these cases and in recalling certain cases from collections vendors. To avoid any logistical issues that could arise from the implementation of these changes, we respectfully request the committee favorably consider our attached amendment, which would cause the changes contained in the bill to operate prospectively starting July 1, 2021 and clarify that suspensions imposed prior to that date would be handled in accordance with the law in place at the time the suspension occurred.

Thank you for your time. I am happy to stand for questions regarding the bill.

Attachments

1 *request.*

2 (B) A person whose driver's license has expired during the period
3 when such person's driver's license has been suspended for failure to pay
4 fines for traffic citations, the driver may submit to the division of vehicles
5 a written request for restricted driving privileges, ~~with a non-refundable~~
6 ~~\$25 application fee, to be applied by the division of vehicles for additional~~
7 ~~administrative costs to implement restricted driving privileges. The~~
8 ~~division shall remit all restricted driving privilege application fees to the~~
9 ~~state treasurer in accordance with the provisions of K.S.A. 75-4215, and~~
10 ~~amendments thereto. Upon receipt of each such remittance, the state~~
11 ~~treasurer shall deposit the entire amount in the state treasury to the credit~~
12 ~~of the division of vehicles operating fund. An individual shall not qualify~~
13 ~~for restricted driving privileges pursuant to this section unless the~~
14 ~~following conditions are met: (i) The suspended license that expired was~~
15 ~~issued by the division of vehicles; (ii) the suspended license resulted from~~
16 ~~the individual's failure to comply with a traffic citation pursuant to~~
17 ~~subsection (b)(1); (iii) the traffic citation that resulted in the failure to~~
18 ~~comply pursuant to subsection (b)(1) was issued in this state; and (iv) the~~
19 ~~individual has not previously received a stayed suspension as a result of a~~
20 ~~driving while suspended conviction. No application fee shall be collected~~
21 ~~in connection with such written request.~~

22 (C) Upon review and approval of the driver's eligibility, the driving
23 privileges will be restricted by the division of vehicles for a period up to
24 one year or until the terms of the traffic citation have been complied with
25 and the court shall immediately electronically notify the division of
26 vehicles of such compliance. If the driver fails to comply with the traffic
27 citation within the one year restricted period, the driving privileges will be
28 suspended by the division of vehicles until the court determines the person
29 has complied with the terms of the traffic citation and the court shall
30 immediately electronically notify the division of vehicles of such
31 compliance. Upon receipt of notification of such compliance from the
32 informing court, the division of vehicles shall terminate the suspension
33 action. When restricted driving privileges are approved pursuant to this
34 section, the person's driving privileges shall be restricted to driving only
35 under the following circumstances: (i) In going to or returning from the
36 person's place of employment or schooling; (ii) in the course of the
37 person's employment; (iii) in going to or returning from an appointment
38 with a health care provider or during a medical emergency; and (iv) in
39 going to and returning from probation or parole meetings, drug or alcohol
40 counseling or any place the person is required to go by a court.

Reinstate existing
language in (c)(1).

41 ~~(c) (1) Prior to July 1, 2018, except as provided in subsection (d),~~
42 ~~when the district or municipal court notifies the division of vehicles of a~~
43 ~~failure to comply with a traffic citation pursuant to subsection (b), the~~

1 court shall assess a reinstatement fee of \$59 for each charge on which the
 2 person failed to make satisfaction regardless of the disposition of the
 3 charge for which such citation was originally issued and regardless of any
 4 application for restricted driving privileges. Such reinstatement fee shall
 5 be in addition to any fine, restricted driving privilege application fee,
 6 district or municipal court costs and other penalties. The court shall remit
 7 all reinstatement fees to the state treasurer in accordance with the
 8 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
 9 each such remittance, the state treasurer shall deposit the entire amount in
 10 the state treasury and shall credit 42.37% of such moneys to the division of
 11 vehicles operating fund, 31.78% to the community alcoholism and
 12 intoxication programs fund created by K.S.A. 41-1126, and amendments
 13 thereto, 10.59% to the juvenile alternatives to detention fund created by
 14 K.S.A. 79-4803, and amendments thereto, and 15.26% to the judicial
 15 branch nonjudicial salary adjustment fund created by K.S.A. 2020 Supp.
 16 20-1a15, and amendments thereto.

Reinstate existing language in (c) (2), replacing "On and after July 1, 2018" with "Prior to July 1, 2021."

17 ~~(2) On and after July 1, 2018;~~ Except as provided in subsection (d),
 18 when the district or municipal court notifies the division of vehicles of a
 19 failure to comply with a traffic citation pursuant to subsection (b), the
 20 court shall assess a reinstatement fee of \$100 for each charge on which the
 21 person failed to make satisfaction regardless of the disposition of any
 22 charge for which such citation was originally issued and regardless of any
 23 application for restricted driving privileges *for each case*. Such
 24 reinstatement fee shall be in addition to any fine, ~~restricted driving~~
 25 ~~privilege application fee~~, district or municipal court costs and other
 26 penalties *and shall only be collected after a person has been determined to*
 27 *be eligible for reinstatement*. The court shall remit all reinstatement fees to
 28 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
 29 and amendments thereto. Upon receipt of each such remittance, the state
 30 treasurer shall deposit the entire amount in the state treasury and shall
 31 credit the first \$15 of such reinstatement fee to the judicial branch
 32 nonjudicial salary adjustment fund and of the remaining amount, 29.41%
 33 of such moneys to the division of vehicles operating fund, 22.06% to the
 34 community alcoholism and intoxication programs fund created by K.S.A.
 35 41-1126, and amendments thereto, 7.36% to the juvenile alternatives to
 36 detention fund created by K.S.A. 79-4803, and amendments thereto, and
 37 41.17% to the judicial branch nonjudicial salary adjustment fund created
 38 by K.S.A. 2020 Supp. 20-1a15, and amendments thereto.

New (c)(3) language: On and after July 1, 2021, except as provided in subsection (d), when the district or municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$100 for each case. [. .]

39 (d) The district court or municipal court shall waive the reinstatement
 40 fee provided for in subsection (c), if the failure to comply with a traffic
 41 citation was the result of such person enlisting in or being drafted into the
 42 armed services of the United States, being called into service as a member
 43 of a reserve component of the military service of the United States, or



State of Kansas

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February 5, 2021

HB 2193

Bill Number: HB 2193 Due Date: February 5, 2021
Responding Agency: Judicial Branch
Prepared by: SB Stephanie Buntten DOB Analyst: Sheena Ward

Fiscal Impact

State—Would this bill have a fiscal effect on your agency? Yes No
Local—Would this bill have a fiscal effect on local government? Yes No
Tax Revenue—Would this bill affect State General Fund revenues? Yes No
Fee or Other Revenue—Would this bill affect revenues to other state funds? Yes No

	<u>FY 2021</u>	<u>FY 2022</u>	<u>FY 2023</u>
Expenditures			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Expenditures	See Below	See Below	See Below
Revenues			
State General Fund			
Fee Fund(s)			
Federal Fund			
Total Revenues	See Below	See Below	See Below
FTE Positions			

Bill Description

HB 2193 would amend K.S.A. 2020 Supp. 8-262 to add a provision that, for a traffic infraction because of driving while having a suspended license under K.S.A. 2020 8-262, such infraction will not extend the period of suspension.

The bill would also amend K.S.A. 2020 Supp. 8-2110 by revising provisions relating to fees paid to the division of vehicles and to reinstatement fees. Specifically, the bill would delete requirements that a person must pay a fee to the division of vehicles when applying for restricted driving privileges when such application is in lieu of a suspension or when the license expires during a period of suspends.

For reinstatement fees, the bill would require the district court assess a reinstatement fee for each case. Currently the section requires a reinstatement fee be charged for each charge. With the change, the fee would be assessed when the court notifies the division of vehicles of failure to comply with a traffic citation. Reinstatement fees would only be collectible when a person is determined eligible for reinstatement. The bill would also extend the time the supreme court may impose an additional charge to fund the costs of non-judicial personnel.

HB 2193 would take effect upon publication.

Assumptions for Fiscal Effect Estimate

Expenditures: HB 2193 does not set a date when the fee per case (and no longer fee per charge) would apply. If the fee per case were to apply to all cases currently on file, the passage of HB 2193 could have a very significant fiscal effect on expenditures of the Judicial Branch. Under this interpretation, all cases involving driver's license reinstatements would have to be examined. Those cases that had a reinstatement fee assessed "per charge" would have to be changed to a reinstatement fee assessed "per case." For those cases sent to collections, the clerks would have to recall these cases from the debt collection vendor, recalculate the debt owed without the reinstatement fee, and then resend the remaining debt back to the debt collection vendor.

Revenues: The passage of HB 2193 would have a very significant fiscal effect on revenues to the Judicial Branch. Because the bill's provisions change the driver's license reinstatement fee from \$100 per charge to \$100 per case, this will create a substantial decrease in revenue to the Judicial Branch Nonjudicial Salary Adjustment Fund and the Judicial Branch Docket Fee Fund. Based on CY 2019 data for a sampling of district court driver's license reinstatements that included 28 counties, of which two were urban courts (Shawnee and Sedgwick Counties), it is estimated that revenue would decrease by approximately 44%.

The FY 2019 driver's license reinstatement fee revenue in the Judicial Branch Nonjudicial Salary Adjustment Fund was \$1,201,649. The estimated annual decrease in revenue due to the bill's provisions is approximately \$528,726 ($\$1,201,649 \times 44\%$).

In addition, there is a \$22 Judicial Branch surcharge on every reinstatement fee. This fee is deposited into the Judicial Branch Docket Fee Fund. The FY 2019 driver's license reinstatement fee surcharge revenue in the Judicial Branch Docket Fee Fund was \$502,471. The estimated annual decrease in surcharge revenue due to the bill's provisions is approximately \$221,087 ($\$502,471 \times 44\%$).

Therefore, the estimated total decrease to Judicial Branch revenue would be approximately \$749,813 annually.

As stated in the previous section, it is unclear whether HB 2193 would apply to cases currently on file. If the provisions of HB 2193 do apply to these cases, the revenue decrease would be much greater than indicated above.

Note: Due to the COVID-19 pandemic, our estimates are based on FY 2019 revenue figures instead of FY 2020. FY 2019 is a more accurate representation of the actual revenue.

Long-Term Fiscal Considerations

The passage of HB 2193 would have a significant long-term fiscal effect on the Judicial Branch as noted above.

Local Government Fiscal Effect

None.

References/Sources