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Testimony to the Senate Judiciary Committee In Support of HB2093 March 16, 2021

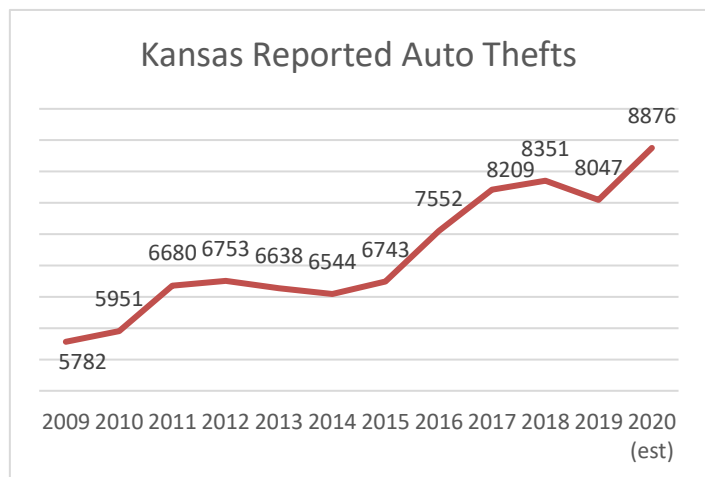
Chair Warren and Committee members:

In 2019, this committee passed favorably SB81 with provisions similar to this bill. HB2093 does not contain a provision from SB81 making the theft of an auto valued under \$1500 a felony. It does include two additional amendments to address issues in the attempt to elude statute.

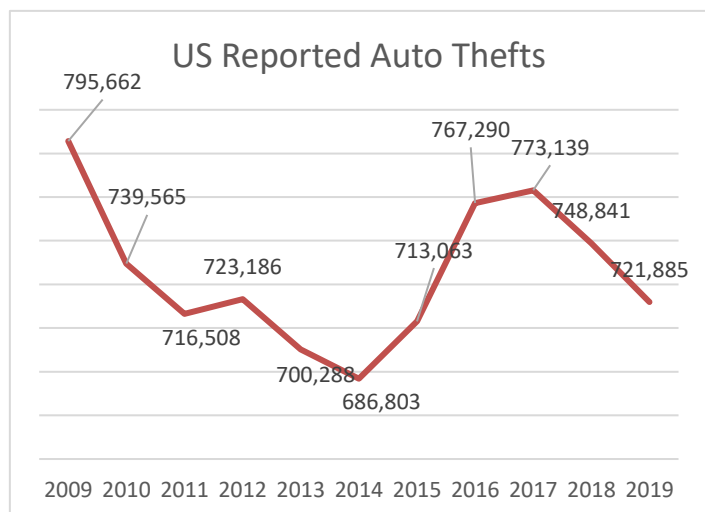
The number of auto thefts continue to rise in Kansas, increasing every year since 2014 with the exception of a drop in 2019.¹ The 2020 increase will be around 10.3% from 2019 and up 6.3% compared to 2018. The 2020 numbers are 19.3% higher than the 10-year average for Kansas.²

This is a statewide issue. In 2019 only seven Kansas Counties reported no auto thefts.³

Auto thefts in the US have decreased each year from 2017 to 2019, down 6.6%⁴ compared to a 6.3% increase in Kansas. The per capita auto theft rate in Kansas is now about 38% higher than that of the US. In 2019 Kansas had the 17th highest auto theft rate.⁵ There is a good chance the 2020 ranking will be worse. The Topeka MSA was the 9th highest per capita rate in the US.⁶



The 2020 estimate is based on the 10.3% increase in Kansas NCIC entries for stolen autos.



¹ KBI 2019 Kansas Crime Index Report <http://www.accesskansas.org/kbi/stats/docs/pdf/CrimeIndex2019.pdf>

² Based in the increase in 2020 Kansas NCIC entries from 2019. Source: KBI

³ KBI 2019 Kansas Crime Index Reports <http://www.accesskansas.org/kbi/stats/docs/pdf/CrimeIndex2019.pdf>

⁴ FBI 2019 Crime in the United States Report <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-1>

⁵ Statista, <https://www.statista.com/statistics/232588/motor-vehicle-theft-rate-in-the-us-by-state/>

⁶ Insurance Information Institute, <https://www.iii.org/fact-statistic/facts-statistics-auto-theft>

Nationally, the average loss in each auto theft case was \$8,886 in 2019.⁷ Using those rates, Kansans suffered an estimated cumulative loss of about \$78.9 million in 2020. Those losses only include the motor vehicle and do not include lost wages, lost productivity, replacement costs, etc.

A January 15 news article reported Overland Park with a 42% increase in auto thefts for 2020; Lenexa an 87% increase, and Shawnee a 39% increase.⁸ Other cities in Kansas I was able to check with also saw increases, but not to the levels as seen in the Kansas City area.

Stolen vehicles also play a major role in attempt to elude cases. In preparing for this testimony, we were able to determine that at a minimum 1 of every 5 of the attempt to elude cases in Kansas during 2019 involved stolen motor vehicles. The real total is higher than that because of the large number of pursuits we terminate without identification of the vehicle or driver.

The public safety risk does not stop with the theft of the vehicle or resulting attempt to elude cases. Many of these vehicles are used in other crimes as disposable getaway vehicles, methods to haul away other stolen property, black-market drug sales and illegal drug transportation just to name a few. One large metro Kansas City agency was able to identify 30% of their stolen vehicles were involved in other crimes during the first ten months of 2018.

Many auto thefts with a value higher than \$1500 get charged as a misdemeanor “Criminal Deprivation of Property” because of the difficulty in proving the intent to permanently deprive. Criminal Deprivation of Property, KSA 21-5803, is a class A misdemeanor. It has sentencing enhancements for the first two convictions, which are misdemeanors, and the crime becomes a felony upon the third conviction relating to a motor vehicle.

HB2093 is presented as it passed the House 124-0. As written, the bill proposes the following amendments to current law to address the problems presented above.

- In section 1 of the bill we request two changes to the attempt to elude statute, KSA 8-1568.
 - On page 1, line 35, the bill adds “operating a stolen motor vehicle” as an additional condition which makes attempting to elude a felony.
 - On page 2, lines 23-25, the bill imposes a minimum fine of \$500 when operating a stolen vehicle while committing the violation of attempting to elude. This is to address the reality of most sentencing we see in these cases today where the sentence for attempt to elude are made concurrent with the sentence for other crimes of conviction. This results in effectively no additional penalty for the attempt to elude. From the perspective of the criminal mind they might as well give it a try to flee.
- In section 2 we are asking to amend KSA 21-5804, the statute on prima facie evidence of intent to permanently deprive by adding attempting to elude law enforcement in a stolen motor vehicle. You will find that amendment on page 5, lines 4-10.
- At our request, the House Judiciary Committee also added the following amendments to the attempting to elude statute.
 - The first one came to us during discussion with the KHP. It would address the problem with the very high-risk maneuvers we are seeing more frequently during the acts of attempting to elude. Those acts include going to the wrong side of a divided highway; going into oncoming traffic on other roadways or through an intersection causing another driver to take evasive action; and when the attempt to elude causes a collision with another motorist. It would enhance the penalty in those cases to a SL7 person felony. That amendment is on page 2, lines 2-8.

⁷ Same

⁸ <https://www.kcur.org/news/2021-01-15/car-thefts-skyrocket-in-johnson-county-in-2020-setting-a-record-in-overland-park>

- The second one came to us during discussion with a prosecutor. It is intended to correct a problem in subsection (a). Apparently, the sentencing provisions for subsection (a) are being interpreted by some as applying the sentencing enhancement only for prior convictions of subsection (a), excluding prior convictions for subsection (b). The proposal clarifies it would include prior convictions of either. That amendment is on page 2, lines 9-18.

Summary

The bill will target auto thefts including the growing losses our citizens and businesses are suffering from thefts of their motor vehicles. It will also address the increased risk posed by offenders in stolen vehicles attempting to elude police.

We ask you to recommend this bill favorably for passage.

Ed Klumpp
Legislative Liaison