

SESSION OF 2021

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2093

As Amended by Senate Committee on Judiciary

Brief*

HB 2093, as amended, would amend the offense of fleeing or attempting to elude a police officer to replace “willfully” with “knowingly” in reference to the mental state required for the offense, add operating a stolen motor vehicle to the list of conduct making the offense a severity level 9 person felony without prior convictions for the offense, and add the following conduct to the offense, which would be classified as a level 7 person felony:

- Knowingly driving the wrong way into an opposing lane of travel on a divided highway;
- Knowingly departing the appropriate lane of travel into an opposing lane of travel on any roadway causing an evasive maneuver by another driver; or
- Knowingly driving through any intersection causing an evasive maneuver by another driver or causing a collision involving another motorist.

The bill would amend the penalty for the felony offense without prior convictions to require the court to impose a fine of at least \$500 when the driver operates a stolen motor vehicle during the commission of the offense. The bill also would clarify that prior convictions for all versions of the offense are to be considered in determining the severity level of the current offense based on the number of prior convictions.

*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>

Additionally, the bill would provide that, in a prosecution for theft of a motor vehicle, fleeing or attempting to elude a police officer would be *prima facie* evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use, or benefit thereof.

Background

The bill was introduced by the House Committee on Judiciary at the request of Representative Patton on behalf of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association.

House Committee on Judiciary

In the House Committee hearing on January 27, 2021, representatives of the Johnson County Sheriff's Office, Kansas County and District Attorneys Association (KCDAA), and Kansas Highway Patrol (KHP), and a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs Association (law enforcement organizations) testified as **proponents** of the bill, stating motor vehicle theft is increasing in Kansas and stolen vehicles are involved in other crimes, and the bill would help address these issues. A representative of the National Insurance Crime Bureau provided written-only proponent testimony.

No neutral or **opponent** testimony was provided.

On February 18, 2021, the House Committee amended the bill to clarify the consideration of prior convictions (as suggested by the law enforcement organizations) and add provisions regarding willfully driving the wrong way and related offenses (as suggested by the law enforcement organizations and the KHP).

Senate Committee on Judiciary

In the Senate Committee hearing on March 22, 2021, representatives of the KHP, the Johnson County Sheriff's Office, and the law enforcement organizations again provided **proponent** testimony on the bill. Written-only **proponent** testimony was provided by a representative of the KCDA.

On March 25, 2021, the Senate Committee amended the bill to replace "willfully" with "knowingly" in provisions referencing the mental state required for the offense.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicates enactment of the bill could have a fiscal effect on the Judicial Branch by requiring additional supervision by court services officers and by resulting in the collection of additional fines and supervision fees in cases filed under the bill's provisions.

The Kansas Sentencing Commission estimates enactment of the bill could affect prison admissions and populations, but the possible effect cannot be estimated. Any fiscal effect associated with the bill is not reflected in *The FY 2022 Governor's Budget Report*.

Fleeing or attempting to elude; motor vehicle theft