

SESSION OF 2011

**CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2044**

As Agreed to March 24, 2011

Brief*

HB 2044 would amend KSA 8-1602, 8-1604, 8-1605, and 2010 Session Laws Ch. 136, Sec. 292 concerning required action and notification in a motor vehicle accident. (2010 Session Laws Ch. 136 recodifies the Kansas Criminal Code and will go into effect July 1, 2011.)

First, the bill would add accidents resulting in damage to an attended vehicle or property to the list of vehicle accidents requiring a person to immediately stop and remain at the scene of the accident until all the requirements imposed by these statutes are fulfilled. Further, the bill would amend the penalties for leaving the scene of an accident as follows:

- For property damages of less than \$1,000, a first conviction would be a class C misdemeanor, a second committed within one year of the first would be a class B misdemeanor, and a third or subsequent committed within one year of the second would be a class A misdemeanor;
- Injury to a person or property damage of \$1,000 or more would be a class A misdemeanor;
- Great bodily harm to a person would be a severity level 8 misdemeanor (from level 10); and

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- Death of a person would be a severity level 6 felony (from level 9), except when a person involved in an accident knew or should have known that the accident resulted in injury or death, which would be a severity level 5 felony.

The bill also would require that, as provided for in KSA 8-15,107, a driver in an accident involving no death, apparent injury, or hazardous materials must make every reasonable effort to remove the vehicle from the road when it obstructs the regular flow of traffic if it can be done safely, without towing, and without causing further damage to the vehicle or roadway.

Next, the bill would clarify that "insofar as possible," a driver in an accident resulting in injury, death, or damage to an attended vehicle must make efforts immediately to determine whether any person involved in the accident was injured or killed and render reasonable assistance to an injured person.

Further, when a police officer is not present, the driver of a vehicle involved in the accident or an occupant 18 years or older must report the accident by the quickest available means of communication to the nearest police office if there is property damage of \$1,000 or more or any person involved in the accident is injured or killed. Pursuant to the bill, the driver or an occupant 18 years or older also must report the accident to the police if an injured person, the driver or occupant of the other car, or a person attending a vehicle or other property damaged in the accident is not present or in a condition to receive the required information.

Additionally, in an accident with an unattended vehicle, the bill would require the driver to stop immediately if there is damage to any vehicle or property and locate the owner to provide the owner with the required information, or leave a securely attached and conspicuously located writing with the required information. A first conviction for failure to do so would be a class C misdemeanor, a second committed within

one year of the first would be a class B misdemeanor, and a third or subsequent committed within one year of the second would be a class A misdemeanor.

The bill also would provide that if a person is convicted for leaving the scene of an accident on or after July 1, 2011, each prior adult conviction, diversion in lieu of criminal prosecution, or juvenile adjudication for DUI will be counted as one person felony for criminal history purposes. Similarly, if a person is convicted of leaving the scene of an accident resulting in injury, great bodily harm, or death, the bill would provide that a prior conviction for the following statutory crimes convicted after July 1, 2011 would count as a person felony for criminal history purposes:

- 8-235, driving a vehicle without a license;
- 8-262, driving while license is canceled, suspended, or revoked;
- 8-287, driving while one's privileges are revoked for being a "habitual violator";
- 8-291, violating restrictions on driver's license or permit;
- 8-1566, reckless driving;
- 8-1567, driving under the influence of alcohol or drugs;
- 8-1568, fleeing or attempting to elude a police officer;
- 8-1602, leaving the scene of an accident resulting in injury, great bodily harm, or death;
- 8-1605, failing to contact the owner of a vehicle following an accident causing damage to unattended property;
- 40-3104, failing to obtain motor vehicle liability insurance coverage;

- 2010 Session Laws Ch 136, Sec. 40(a)(3), involuntary manslaughter committed while DUI; and
- 2010 Session Laws Ch 136, Sec. 41, vehicular homicide.

Finally, the bill would make some technical amendments.

Conference Committee Action

The Conference Committee agreed that leaving the scene of an accident that results in the death of a person would be a severity level 6 felony (from level 9), except when a person involved in an accident knew or should have known that the accident resulted in injury or death, which would be a severity level 5 felony.

Background

In the House Committee on Corrections and Juvenile Justice, Representative Paul Davis and representatives of the Douglas County District Attorney's Office and the Attorney General's Office, in addition to local citizens, appeared in support of HB 2044. A representative of the Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officer's Association also provided written testimony in support of the bill.

The House Committee on Corrections and Juvenile Justice amended the bill by making technical changes; changing failure to remain at the scene of an accident resulting in death to a severity level 6 person felony; requiring that a driver immediately make efforts to determine whether a person involved in an accident is injured or killed; requiring notification to law enforcement in certain cases; and adding DUI and failing to contact the owner of a vehicle following an accident causing damage to unattended property to the list of

crimes treated as person felonies for criminal history purposes.

The Senate Committee on Transportation amended the bill so that failure to remain at the scene of an accident resulting in death would be a severity level 5 person felony, as in the original bill. It also made a technical amendment.

The fiscal note for HB 2044 as introduced indicates that the bill likely would increase litigation in the courts, but the Office of Judicial Administration states such costs likely would be accommodated within existing resources.

The Kansas Sentencing Commission estimates an increase in annual convictions pursuant to HB 2044 as introduced of 3 prison beds in FY 2012 and 16 beds in FY 2021. As the number of male inmates already exceeds capacity, the bed impact of this bill in addition to the impact of other possible legislation is likely to require additional expenditures. The FY 2012 Governor's Budget Report includes \$2.5 million for contract prison beds and if construction is necessary, the Department of Corrections has identified 2 expansion projects: 2 high medium housing units at El Dorado Correctional Facility, with 512 beds and a cost of \$22.7 million for construction and \$9.3 million for operation, and 1 minimum security housing unit at Ellsworth Correctional Facility, with 100 beds and a cost of \$5.9 million for construction and \$1.8 million for operation.

Crimes; Requirements After a Vehicle Collision