

SESSION OF 2019

## SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2064

As Amended by House Committee on Judiciary

### **Brief\***

HB 2064, as amended, would amend the Uniform Act Regulating Traffic regarding when a person stopped by a law enforcement officer is to be taken into custody and taken before a judge of the district court. Specifically, the bill would clarify that a person is to be taken into custody and taken before a judge of the district court when the law enforcement officer “believes there is sufficient evidence for” the person to be charged with a felony violation or for violations of both driving under the influence (DUI) and fleeing or attempting to elude a police officer. [Note: This includes an amendment that the evidence must be that “both” DUI and fleeing or attempting to elude violations may be charged.] Current law directs, in relevant part, that a person is to be taken before a judge of a district court when such person is to be charged with the above violations.

The bill would make technical amendments to clarify wording, ensure consistency, and update statutory references.

### **Background**

The bill was introduced by the House Committee on Judiciary at the request of the League of Kansas Municipalities (LKM). In the House Committee hearing, a representative of LKM testified in support of the bill, stating the bill was requested in response to a recent Court of Appeals decision, *Stormont-Vail Healthcare, Inc., v. The*

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\*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>

*Board of County Commissioners for Jackson County Kansas*, No. 117,650, unpublished opinion filed May 11, 2018, and would clarify that law enforcement officers do not make charging decisions. The representative further stated the *Stormont-Vail* court had appeared to interpret the provision requiring a law enforcement officer to take a person into custody for a violation of DUI and fleeing or attempting to elude to apply when either violation is to be charged, rather than when both violations are to be charged, thereby interpreting the “and” as an “or.”

No other testimony was provided.

The House Committee adopted an amendment adding “both” to the provision regarding DUI and fleeing or attempting to elude.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Office of Judicial Administration indicated enactment of the bill would have a negligible fiscal effect on the Judicial Branch.