

SESSION OF 2018

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2439**

As Amended by House Committee on  
Corrections and Juvenile Justice

**Brief\***

HB 2439, as amended, would amend the definition of the crime of involuntary manslaughter to include the killing of a human being committed in the commission of, or attempt to commit, or flight from driving under the influence of alcohol or drugs (DUI) while:

- In violation of any restriction imposed on such person's driving privileges for DUI;
- The person's driving privileges are suspended or revoked for DUI; or
- The person has been deemed a habitual violator as defined in KSA 2017 Supp. 8-285, including at least one DUI violation.

Violation of this provision would be a severity level 3, person felony. This new offense would be added to the list of offenses for which juvenile records or files may not be expunged. It also would be added to the list of offenses that the Department of Corrections is required to report when committed by a sex offender in the custody of the Secretary of Corrections.

In addition, the bill would amend the definition of aggravated battery to include causing great bodily harm or disfigurement of another person while DUI under the same circumstances as those described above. Violation of the

---

\*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>

aggravated battery provision would be a severity level 4, person felony.

The new offenses would be added to the list of underlying offenses requiring an increased penalty for a third or subsequent conviction for driving while driving privileges are canceled, suspended, or revoked for such underlying offenses. The bill would amend the DUI, commercial DUI, and test refusal statutes to include the new offenses in the list of offenses for which any convictions in a person's lifetime must be considered in determining the number of a subsequent DUI conviction. The DUI administrative penalties definitions statute would be amended to include the new offenses, as well as the existing offense of involuntary manslaughter while DUI, in the definition of "alcohol or drug-related conviction."

The statute governing the use of previous DUI-related convictions in calculating criminal history for involuntary manslaughter while DUI or aggravated battery while DUI would be amended to apply the same rules to the new offenses.

Finally, the bill would make technical amendments to statutory references.

## **Background**

The bill was introduced by Representatives Jennings, Brim, Delperdang, Mastroni, Ryckman, Schwab, Eric Smith, Tarwater, and Wheeler. As introduced, the bill contained the involuntary manslaughter provision.

In the House Committee on Corrections and Juvenile Justice hearing, a representative of the Kansas Association of Chiefs of Police, Kansas Peace Officers Association, and Kansas Sheriffs' Association and two private citizens testified in favor of the bill.

Written proponent testimony was provided by the Kansas County and District Attorneys Association and a private citizen. No neutral or opponent testimony was provided.

The House Committee amended the bill by adding the aggravated battery provision.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Kansas Sentencing Commission indicates enactment of the bill would have no impact on adult prison beds in FY 2019, but an additional 3 to 12 beds would be needed by FY 2028. The Department of Corrections estimates the 3 to 12 beds could increase expenditures for contract jail beds in FY 2028 by between \$10,983 and \$43,931 from the State General Fund.

The Office of Judicial Administration indicates the bill would increase court filings for the crime of involuntary manslaughter, but a precise estimate of expenditures and docket fee revenues that the courts may incur from those filings is unknown.

Any fiscal effect associated with the bill is not reflected in *The FY 2019 Governor's Budget Report*.